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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 10th May, 1983:—

BILL NO. 70 OF 1983

A Bill further to amend the Bankers Books Evidence Act, 1891, the Reserve Bank of India Act, 1934, the Banking Regulation Act, 1949, the State Bank of India Act, 1955, the State Bank of India (Subsidiary Banks) Act, 1959, the Deposit Insurance and Credit Guarantee Corporation Act, 1961, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the Regional Rural Banks Act, 1976 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the Banking Laws (Amendment) Act, 1983. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act, and any reference in any provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

CHAPTER II

AMENDMENTS TO THE BANKERS' BOOKS EVIDENCE ACT, 1891

Amendment of Act 18 of 1891.

2. In the Bankers' Books Evidence Act, 1891,—

(*a*) in section 2,—

(*i*) for clause (*4*), the following clause shall be substituted, namely:—

'(*4*) "legal proceeding" means,—

(*i*) any proceeding or inquiry in which evidence is or may be given;

(*ii*) an arbitration; and

(*iii*) any investigation or inquiry under the Code of Criminal Procedure, 1973, or under any other law for the time being in force for the collection of evidence, conducted by a police officer or by any other person (not being a magistrate) authorised in this behalf by a magistrate or by any law for the time being in force;'; 2 of 1974.

(*ii*) in clause (*8*), for the words "such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title", the following shall be substituted, namely:—

"and where the copy was obtained by a mechanical or other process which in itself ensured the accuracy of the copy, a further certificate to that effect, but where the book from which such copy was prepared has been destroyed in the usual course of the bank's business after the date on which the copy had been so prepared, a further certificate to that effect, each such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title.";

(*b*) after section 7, the following section shall be inserted, namely:—

Order of court to be construed to be order made by specified officer.

'8. In the application of sections 5, 6 and 7 to any investigation or inquiry referred to in sub-clause (*iii*) of clause (*4*) of section 2, the order of a court or a Judge referred to in the said sections shall be construed as referring to an order made by an officer of a rank not lower than the rank of a Superintendent of Police as may be specified in this behalf by the appropriate Government.

Explanation.—In this section, "appropriate Government" means the Government by which the police officer or any other person conducting the investigation or inquiry is employed.'.

CHAPTER III

AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934

Amendment of section 17.

3. In section 17 of the Reserve Bank of India Act, 1934 (hereafter in this Chapter referred to as the Reserve Bank Act), in clause (*4B*), in the proviso, for the words "three crores of rupees", the words "fifteen crores of rupees" shall be substituted. 2 of 1934.

Amendment of section 33.

4. In section 33 of the Reserve Bank Act, in sub-clause (*a*) of clause (*i*) of sub-section (*6*), for the word "notified", the word "approved" shall be substituted.

Amendment of section 40.

5. In section 40 of the Reserve Bank Act, in the *Explanation*, for the words and figures "Foreign Exchange Regulation Act, 1947", the words and figures "Foreign Exchange Regulation Act, 1973" shall be substituted.

7 of 1947.

46 of 1973.

Amendment of section 42.

6. In section 42 of the Reserve Bank Act,—

(*a*) in the *Explanation* to sub-section (*1*),—

(*i*) in clause (*a*), for the words "of a week", the words "of a fortnight" shall be substituted;

(*ii*) for clause (*b*), the following clause shall be substituted, namely:—

'(*b*) "fortnight" shall mean the period from Saturday to the second following Friday, both days inclusive;';

(*iii*) in clause (*c*),—

(*A*) in sub-clause (*iii*), after the words "State Government", the words and figures "or from the National Co-operative Development Corporation established under the National Co-operative Development Corporation Act, 1962" shall be inserted;

26 of 1962.

(*B*) after sub-clause (*iv*), the following sub-clause shall be inserted, namely:—

"(*v*) in the case of a Regional Rural Bank, also any loan taken by such bank from its Sponsor Bank;";

(*iv*) in clause (*d*), after sub-clause (*iii*), the following sub-clause shall be inserted, namely:—

"(*iiia*) a corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;";

40 of 1980.

(*v*) in clause (*e*), after sub-clause (*iii*), the following sub-clause shall be inserted, namely:—

"(*iiia*) a corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;";

40 of 1980.

(*b*) to sub-section (*1A*), the following proviso shall be added, namely:—

"Provided that the Bank may, by a separate notification in the Gazette of India, specify different dates in respect of a bank subsequently included in the Second Schedule.";

(c) after sub-section (*1B*), the following sub-section shall be inserted, namely:—

"(*1C*) The Bank may, for the purposes of this section, specify from time to time with reference to any transaction or class of transactions that such transaction or transactions shall be regarded as liability in India of a scheduled bank, and if any question arises as to whether any transaction or class of transactions shall be regarded, for the purposes of this section, as liability in India of a scheduled bank, the decision of the Bank thereon shall be final.";

(d) in sub-section (*2*),—

(*i*) for the words "at the close of business on each Friday, and every such return shall be sent not later than five days after the date to which it relates", the words "at the close of business on each alternate Friday, and every such return shall be sent not later than seven days after the date to which it relates" shall be substituted;

(*ii*) in the second proviso, after the words "Provided further that where", the words "such alternate" shall be inserted;

(*iii*) for the third proviso, the following proviso shall be substituted, namely:—

"Provided also that where the Bank is satisfied that the furnishing of a fortnightly return under this sub-section is impracticable in the case of any scheduled bank by reason of the geographical position of the bank and its branches, the Bank may allow such bank—

(*i*) to furnish a provisional return for the fortnight within the period aforesaid to be followed by a final return not later than twenty days after the date to which it relates, or

(*ii*) to furnish in lieu of a fortnightly return a monthly return to be sent not later than twenty days after the end of the month to which it relates giving the details specified in this sub-section in respect of such bank at the close of business for the month.";

(*e*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*2A*) Where the last Friday of a month is not an alternate Friday for the purpose of sub-section (*2*), every scheduled bank shall send to the Bank, a special return giving the details specified in sub-section (*2*) as at the close of business on such last Friday or where such last Friday is a public holiday under the Negotiable Instruments Act, 1881 as at the close of business on the preceding working day and such return shall be sent not later than seven days after the date to which it relates."; 26 of 1881.

(*f*) in sub-sections (*3*) and (*3A*), for the word "week" wherever it occurs, the word "fortnight" shall be substituted.

Amendment of section 43.

7. In section 43 of the Reserve Bank Act, for the word "week", the word "fortnight" shall be substituted.

Amendment of section 45H.

8. In section 45H of the Reserve Bank Act, for the words and figures "a banking institution notified under section 51 of that Act", the words, brackets, letters and figures "a corresponding new bank as defined in clause (*da*) of section 5 of that Act or a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959" shall be substituted.

38 of 1959.

Amendment of section 45I.

9. In section 45I of the Reserve Bank Act,—

(*i*) for clause (*bb*), the following clause shall be substituted, namely:—

'(*bb*) "deposit" includes and shall be deemed always to have included any receipt of money by way of deposit or loan or in any other form, but does not include,—

(*i*) amounts raised by way of share capital;

(*ii*) amounts contributed as capital by partners of a firm;

(*iii*) amounts received from a scheduled bank or a co-operative bank or any other banking company as defined in clause (*c*) of section 5 of the Banking Regulation Act, 1949;

10 of 1949.

(*iv*) any amount received from,—

(*a*) the Development Bank,

(*b*) a State Financial Corporation,

(*c*) any financial institution specified in or under section 6A of the Industrial Development Bank of India Act, 1964, or

18 of 1964.

(*d*) any other institution that may be specified by the Bank in this behalf;

(*v*) amounts received in the ordinary course of business, by way of—

(*a*) security deposit,

(*b*) dealership deposit,

(*c*) earnest money, or

(*d*) advance against orders for goods, properties or services;

(*vi*) any amount received from an individual or a firm or an association of individuals not being a body corporate, registered under any enactment relating to money lending which is for the time being in force in any State; and

(*vii*) any amount received by way of subscriptions in respect of a chit.

Explanation I.—"Chit" has the meaning assigned to it in clause (*b*) of section 2 of the Chit Funds Act, 1982. 40 of 1982.

Explanation II.—Any credit given by a seller to a buyer on the sale of any property (whether movable or immovable) shall not be deemed to be deposit for the purposes of this clause;';

(*ii*) in clause (*d*), the words ", of which the capital subscribed by its partners exceeds one lakh of rupees" shall be omitted;

(*iii*) in clause (*e*), for the words ", co-operative society or firm", the words "or co-operative society" shall be substituted.

Insertion of new Chapter after Chapter III B.

10. After Chapter IIIB of the Reserve Bank Act, the following Chapter shall be inserted, namely:—

"CHAPTER IIIC

PROHIBITION OF ACCEPTANCE OF DEPOSITS BY UNINCORPORATED BODIES

Interpretation.

45R. The words and expressions used in this Chapter and defined in Chapter IIIB shall have the meanings respectively assigned to them therein.

Deposits not to be accepted in certain cases.

45S. (*1*) No person, being an individual or a firm or an unincorporated association of individuals shall, at any time, have deposits from more than the number of depositors specified against each, in the table below:—

TABLE

(*i*) Individual	Not more than ten depositors.
(*ii*) Firm	Not more than ten depositors per partner and not more than one hundred depositors in all.
(*iii*) Unincorporated association of individuals	Not more than ten depositors per individual and not more than one hundred depositors in all.

(2) Where at the commencement of section 10 of the Banking Laws (Amendment) Act, 1983, the deposits held by any such person are not in accordance with sub-section (1), he shall, before the expiry of a period of two years from the date of such commencement, repay such of the deposits as are necessary for bringing the number of depositors within the relative limits specified in that sub-section.

Explanation.—For the purposes of this section,—

(a) where a deposit has been made by two or more persons, it shall be deemed to have been made by as many depositors as there are number of persons making such deposit;

(b) a person in whose favour a credit balance is outstanding for a period not exceeding six months in any account relating to mutual dealings in the ordinary course of trade or business shall not, on account of such balance alone, be deemed to be a depositor.

Power to issue search warrants.

45T. (1) Any court having jurisdiction to issue a search warrant under the Code of Criminal Procedure, 1973 may, on an application by an officer of the Bank or of the State Government authorised in this behalf stating his belief that certain documents relating to acceptance of deposits in contravention of the provisions of section 45S are secreted in any place within the local limits of the jurisdiction of such court, issue a warrant to search for such documents.

2 of 1974.

(2) A warrant issued under sub-section (1) shall be executed in the same manner and shall have the same effect as a search warrant issued under the Code of Criminal Procedure, 1973.".

2 of 1974.

Amendment of section 58B.

11. In section 58B of the Reserve Bank Act, after sub-section (5), the following sub-sections shall be inserted, namely:—

"(5A) If any person contravenes any provision of section 45S, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to twice the amount of deposit received by such person in contravention of that section, or two thousand rupees, whichever is more, or with both:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, the imprisonment shall not be less than one year and the fine shall not be less than one thousand rupees.

(5B) Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973, it shall be lawful for a Metropolitan Magistrate or a Judical Magistrate of the first class to impose a sentence of fine in excess of the limit specified in that section on any person convicted under sub-section (5A).".

2 of 1974.

Amendment of section 58E.

12. In section 58E of the Reserve Bank Act, to sub-section (1), the following proviso shall be added, namely:—

"Provided that in respect of any offence punishable under sub-section (5A) of section 58B, a complaint in writing may also be made by an officer of the State Government, generally or specially authorised in writing in this behalf by that Government,".

CHAPTER IV

AMENDMENTS TO THE BANKING REGULATION ACT, 1949

Amendment of section 5.

13. In section 5 of the Banking Regulation Act, 1949 (hereafter in this Chapter referred to as the Banking Regulation Act), 10 of 1949.—

(*a*) for clause (*a*), the following clause shall be substituted, namely:—

'(*a*) "approved securities" means—

(*i*) securities in which a trustee may invest money under clause (*a*), clause (*b*), clause (*bb*), clause (*c*) or clause (*d*) of section 20 of the Indian Trusts Act, 1882; 2 of 1882.

(*ii*) such of the securities authorised by the Central Government under clause (*f*) of section 20 of the Indian Trusts Act, 1882, as may be prescribed;'; 2 of 1882.

(*b*) after clause (*d*), the following clause shall be inserted, namely:—

'(*da*) "corresponding new bank" means a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;'; 5 of 1970. 40 of 1980.

(*c*) after clause (*ff*), the following clauses shall be inserted, namely:—

'(*ffa*) "Development Bank" means the Industrial Development Bank of India established under section 3 of the Industrial Development Bank of India Act, 1964; 18 of 1964.

(*ffb*) "Exim Bank" means the Export-Import Bank of India established under section 3 of the Export-Import Bank of India Act, 1981;"; 28 of 1981.

(*d*) for clause (*l*), the following clause shall be substituted, namely:—

'(*l*) "Reserve Bank" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934;'; 2 of 1934.

(*e*) clause (*nb*) and clause (*nc*) shall be re-lettered as clause (*nd*) and clause (*ne*), respectively, and before clause (*nd*) as so re-lettered, the following clauses shall be inserted, namely:—

'(*nb*) "Sponsor Bank" has the meaning assigned to it in the Regional Rural Banks Act, 1976; 21 of 1976.

(*nc*) "State Bank of India" means the State Bank of India constituted under section 3 of the State Bank of India Act, 1955;'. 23 of 1955.

Amendment of section 7.

14. In section 7 of the Banking Regulation Act, in sub-section (*1*), after the words "shall use as part of its name", the words "or in connection with its business" shall be inserted.

Amendment of section 8.

15. In section 8 of the Banking Regulation Act, for the proviso, the following proviso shall be substituted, namely:—

"Provided that this section shall not apply to any such business as is specified in pursuance of clause (*o*) of sub-section (*1*) of section 6.".

Amendment of section 10A.

16. In section 10A of the Banking Regulation Act, after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*2A*) Notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law for the time being in force,— 1 of 1956.

(*i*) no director of a banking company, other than its chairman or whole-time director, by whatever name called, shall hold office continuously for a period exceeding eight years;

(*ii*) a chairman or other whole-time director of a banking company who has been removed from office as such chairman, or whole-time director, as the case may be, under the provisions of this Act shall also cease to be a director of the banking company and shall also not be eligible to be appointed as a director of such banking company, whether by election or co-option or otherwise, for a period of four years from the date of his ceasing to be the chairman or whole-time director, as the case may be.".

Amendment of section 10B.

17. In section 10B of the Banking Regulation Act,—

(*a*) in sub-section (*1*), for the words "shall have a chairman of its Board of directors", the words "shall have one of its directors as chairman of its Board of directors" shall be substituted;

(*b*) in sub-section (*5*), the words "but shall continue in office until his successor assumes office" shall be omitted;

(*c*) after sub-section (*5*), the following sub-section shall be inserted, namely:—

"(*5A*) A chairman of the Board of directors whose term of office has come to an end, either by reason of his resignation or by reason of expiry of the period of his office, shall, subject to the approval of the Reserve Bank, continue in office until his successor assumes office.".

Insertion of new section 10BB.

18. After section 10B of the Banking Regulation Act, the following section shall be inserted, namely:—

Power of Reserve Bank to appoint

"10BB. (*1*) Where the office of the chairman of a banking company is vacant, the Reserve Bank may, if it is of opinion that the continuation of such vacancy is likely to adversely affect the

chairman of a banking company.

interests of the banking company, appoint a person, eligible under sub-section (4) of section 10B to be so appointed, to be the chairman of the banking company and where the person so appointed is not a director of such banking company, he shall, so long as he holds the office of the chairman, be deemed to be a director of the banking company.

(2) The chairman so appointed by the Reserve Bank shall be in the whole-time employment of the banking company and shall hold office for such period not exceeding three years, as the Reserve Bank may specify, but shall, subject to other provisions of this Act, be eligible for reappointment.

(3) The chairman so appointed by the Reserve Bank shall draw from the banking company such pay and allowances as the Reserve Bank may determine and may be removed from office only by the Reserve Bank.

(4) Save as otherwise provided in this section, the provisions of section 10B shall, as far as may be, apply to the chairman appointed by the Reserve Bank under sub-section (1) as they apply to a chairman appointed by the banking company.".

Substitution of new section for section 10C.

19. For section 10C of the Banking Regulation Act, the following section shall be substituted, namely:—

Chairman and certain directors not to be required to hold qualification shares.

"10C. A chairman of a banking company (by whomsoever appointed) and a director of a banking company (appointed by the Reserve Bank under section 10A) shall not be required to hold qualification shares in the banking company.".

Amendment of section 10D.

20. In section 10D of the Banking Regulation Act, after the words, figures and letters "in pursuance of section 10A or section 10B" the words, figures and letters "or section 10BB" shall be inserted.

21. For section 18 of the Banking Regulation Act, the following section shall be substituted, namely:— Substitution of new section for section 18.

'18. (*1*) Every banking company, not being a scheduled bank, shall maintain in India by way of cash reserve with itself or by way of balance in a current account with the Reserve Bank, or by way of net balance in current accounts or in one or more of the aforesaid ways, a sum equivalent to at least three per cent. of the total of its demand and time liabilities in India as on the last Friday of the second preceding fortnight and shall submit to the Reserve Bank before the twentieth day of every month a return showing the amount so held on alternate Fridays during a month with particulars of its demand and time liabilities in India on such Fridays or if any such Friday is a public holiday under the Negotiable Instruments Act, 1881, at the close of business on the preceding working day. Cash reserve. 26 of 1881.

Explanation.—In this section, and in section 24,—

(*a*) "liabilities in India" shall not include—

(*i*) the paid-up capital or the reserves or any credit balance in the profit and loss account of the banking company;

(*ii*) any advance taken from the Reserve Bank or from the Development Bank or from the Exim Bank or from the National Bank by the banking company;

(*iii*) in the case of a Regional Rural Bank, also any loan taken by such bank from its Sponsor Bank;

(*b*) "fortnight" shall mean the period from Saturday to the second following Friday, both days inclusive;

(*c*) "net balance in current accounts" shall, in relation to a banking company, mean the excess, if any, of the aggregate of the credit balances in current account maintained by that banking company with the State Bank of India or a subsidiary bank or a corresponding new bank over the aggregate of the credit balances in current account held by the said banks with such banking company;

(*d*) for the purposes of computation of liabilities, the aggregate of the liabilities of a banking company to the State Bank of India, a subsidiary bank, a corresponding new bank, a regional rural bank, another banking company, a co-operative bank or any other financial institution notified by the Central Government in this behalf, shall be reduced by the aggregate of the liabilities of all such banks and institutions to the banking company;

(*e*) the expression "co-operative bank" shall have the meaning assigned to it in clause (*cci*) of section 56.

(2) The Reserve Bank may, for the purposes of this section and section 24, specify from time to time, with reference to any transaction or class of transactions, that such transaction or transactions shall be regarded as liability in India of a banking company and, if any question arises as to whether any transaction or class of transactions shall be regarded for the purposes of this section and section 24 as liability in India of a banking company, the decision of the Reserve Bank thereon shall be final.'.

Amendment of section 19.

22. In section 19 of the Banking Regulation Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) A banking company shall not form any subsidiary company except a subsidiary company formed for one or more of the following purposes, namely:—

(a) the undertaking of any business which, under clauses (a) to (o) of sub-section (1) of section 6, is permissible for a banking company to undertake, or

(b) with the previous permission in writing of the Reserve Bank, the carrying on of the business of banking exclusively outside India, or

(c) the undertaking of such other business, which the Reserve Bank may, with the prior approval of the Central Government, consider to be conducive to the spread of banking in India or to be otherwise useful or necessary in the public interest.

Explanation.—For the purposes of section 8, a banking company shall not be deemed, by reason of its forming or having a subsidiary company, to be engaged indirectly in the business carried on by such subsidiary company.".

Amendment of section 20.

23. In section 20 of the Banking Regulation Act, in sub-section (1), in clause (b), in sub-clause (iii), after the words "of which", the words ", or the subsidiary or the holding company of which" shall be inserted.

Insertion of new section 21A.

24. After section 21 of the Banking Regulation Act, the following section shall be inserted, namely:—

Rates of interest charged by banking companies not to be subject to scrutiny by court.

"21A. Notwithstanding anything contained in the Usurious Loans Act, 1918, or any other law relating to indebtedness in force in any State, a transaction between a banking company and its debtor shall not be reopened by any Court on the ground that the rate of interest charged by the banking company in respect of such transaction is excessive.". 10 of 1918.

Amendment of section 22.

25. In section 22 of the Banking Regulation Act,—

(*i*) in sub-section (*3*),—

(*a*) in the opening portion, the words "all or any of" shall be omitted;

(*b*) for clause (*c*), the following clauses shall be substituted, namely:—

"(c) that the general character of the proposed management of the company will not be prejudicial to the public interest or the interest of its depositors;

(*d*) that the company has adequate capital structure and earning prospects;

(*e*) that the public interest will be served by the grant of a licence to the company to carry on banking business in India;

(*f*) that having regard to the banking facilities available in the proposed principal area of operations of the company, the potential scope for expansion of banks already in existence in the area and other relevant factors the grant of the licence would not be prejudicial to the operation and consolidation of the banking system consistent with monetary stability and economic growth;

(*g*) any other condition, the fulfilment of which would, in the opinion of the Reserve Bank, be necessary to ensure that the carrying on of banking business in India by the company will not be prejudicial to the public interest or the interests of the depositors.";

(*ii*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*3A*) Before granting any licence under this section to a company incorporated outside India, the Reserve Bank may require to be satisfied by an inspection of the books of the company or otherwise that the conditions specified in sub-section (*3*) are fulfilled and that the carrying on of banking business by such company in India will be in the public interest and that the Government or law of the country in which it is incorporated does not discriminate in any way against banking companies registered in India and that the company complies with all the provisions of this Act applicable to banking companies incorporated outside India.";

(*iii*) in sub-section (*4*), in clause (*iii*), after the word, brackets and figure "sub-section (*3*)", the words, brackets, figure and letter "and sub-section (*3A*)" shall be inserted.

Amendment of section 24.

26. In section 24 of the Banking Regulation Act,—

(*a*) in sub-section (*1*), for the words "time and demand liabilities", the words "demand and time liabilities" shall be substituted;

(*b*) in sub-section (*2A*),—

(*i*) in clause (*a*), for the words and figures "shall maintain in India in cash, gold or unencumbered approved securities, valued at a price not exceeding the current market price, an amount which shall not at the close of business on any day be less than 25 per cent. of the total of its demand and time liabilities in India", the following shall be substituted, namely:—

"shall maintain in India,—

(*A*) in cash, or

(*B*) in gold valued at a price not exceeding the current market price or in unencumbered approved securities valued at a price determined in accordance with such one or more of, or combination of, the following methods of valuation, namely, valuation with reference to cost price, market price, book value, as may be specified by the Reserve Bank from time to time,

an amount which shall not, at the close of business on any day, be less than twenty-five per cent. or such other percentage not exceeding forty per cent. as the Reserve Bank may, from time to time, by notification in the Official Gazette, specify, of the total of its demand and time liabilities in India, as on the last Friday of the second preceding fortnight";

(*ii*) for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) in computing the amount for the purposes of clause (*a*),—

(*i*) the deposit required under sub-section (*2*) of section 11 to be made with the Reserve Bank by a banking company incorporated outside India;

(*ii*) any cash or balances maintained in India by a banking company other than a scheduled bank with itself or with the Reserve Bank or by way of net balance in current account in excess of the aggregate of the cash or balance or net balance required to be maintained under section 18;

(*iii*) any balances maintained by a scheduled bank with the Reserve Bank in excess of the balance required to be maintained by it under section 42 of the Reserve Bank of India Act, 1934;

2 of 1934.

(*iv*) the net balance in current accounts maintained in India by a scheduled bank;

(*v*) any balances maintained by a Regional Rural Bank in call or fixed deposit with its Sponsor Bank,

shall be deemed to be cash maintained in India.";

(*iii*) the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—For the purpose of clause (*a*) of this sub-section, the market price of an approved security shall be the price as on the date of the issue of the notification or as on any earlier or later date as may be notified from time to time by the Reserve Bank in respect of any class or classes of securities.";

(c) in sub-section (*2B*), the words and figures "established under section 3 of the Regional Rural Banks Act, 1976" shall be omitted;

21 of 1976.

(d) for sub-section (*3*), the following sub-sections shall be substituted, namely:—

'(*3*) For the purpose of ensuring compliance with the provisions of this section, every banking company shall, not later than twenty days after the end of the month to which it relates, furnish to the Reserve Bank in the prescribed form and manner a monthly return showing particulars of its assets maintained in accordance with this section, and its demand and time liabilities in India at the close of business on each alternate Friday during the month, or if any such Friday is a public holiday, at the close of business on the preceding working day:

Provided that every Regional Rural Bank shall also furnish a copy of the said return to the National Bank.

(*4*) (*a*) If on any alternate Friday or, if such Friday is a public holiday, on the preceding working day, the amount maintained by a banking company at the close of business on that day falls below the minimum prescribed by or under clause (*a*) of sub-section (*2A*), such banking company shall be liable to pay to the Reserve Bank in respect of that day's default, penal interest for that day at the rate of three per cent. per annum above the bank rate on the amount by which the amount actually maintained falls short of the prescribed minimum on that day; and

(b) if the default occurs again on the next succeeding alternate Friday, or, if such Friday is a public holiday, on the preceding working day, and continues on succeeding alternate Fridays or preceding working days, as the case may be, the rate of penal interest shall be increased to a rate of five per cent. per annum above the bank rate on each such shortfall in respect of that alternate Friday and each succeeding alternate Friday or preceding working day, if such Friday is a public holiday, on which the default continues.

(5) (a) Without prejudice to the provisions of sub-section (3), the Reserve Bank may require a banking company to furnish to it a return in the form and manner specified by it showing particulars of its assets maintained in accordance with this section and its demand and time liabilities in India, as at the close of business on each day of a month; and

(b) without prejudice to the provisions of sub-section (4), on the failure of a banking company to maintain as on any day, the amount so required to be maintained by or under clause (a) of sub-section (2A) the Reserve Bank may, in respect of such default, require the banking company to pay penal interest for that day as provided in clause (a) of sub-section (4) and if the default continues on the next succeeding working day, the penal interest may be increased as provided in clause (b) of sub-section (4) for the concerned days.

(6) (a) The penalty payable under sub-section (4) and sub-section (5) shall be paid within a period of fourteen days from the date on which a notice issued by the Reserve Bank demanding payment of the same is served on the banking company and in the event of failure of the banking company to pay the same within such period, the penalty may be levied by a direction of the principal civil court having jurisdiction in the area where an office of the defaulting banking company is situated, such direction to be made only upon an application made by the Reserve Bank in this behalf to the court; and

(b) when the court makes a direction under clause (a), it shall issue a certificate specifying the sum payable by the banking company and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a suit.

(7) When under the provisions of clause (b) of sub-section (4) penal interest at the increased rate of five per cent. above the bank rate has become payable by a banking company, if thereafter the amount required to be maintained on the next succeeding alternate Friday, or if such Friday is a public holiday, the next preceding working day, is still below the prescribed minimum, every director, manager or secretary of the banking company, who is knowingly and wilfully a party to the default, shall be punishable with fine which may extend to five hundred rupees and with a further fine which may extend to five hundred rupees for each subsequent alternate Friday or the preceding working day, as the case may be, on which the default continues.

(8) Notwithstanding anything contained in this section, if the Reserve Bank is satisfied on an application in writing by the defaulting banking company, that the banking company had sufficient cause for its failure to comply with the provisions of clause (a) of sub-section (2A), the Reserve Bank may not demand the payment of the penal interest.

Explanation.—In this section, the expression "public holiday" means a day which is a public holiday under the Negotiable Instruments Act, 1881.'.

26 of 1881

27. In section 29 of the Banking Regulation Act, after sub-section (3), the following sub-section shall be inserted, namely:— Amendment of section 29.

1 of 1956.

"(3A) Notwithstanding anything to the contrary contained in sub-section (3) of section 210 of the Companies Act, 1956, the period to which the profit and loss account relates shall, in the case of a banking company, be the period ending with the last working day of the year immediately preceding the year in which the annual general meeting is held.".

28. In section 34A of the Banking Regulation Act, for sub-section (3), the following sub-section shall be substituted, namely:— Amendment of section 34A.

'(3) For the purposes of this section "banking company" includes the Reserve Bank, the Development Bank, the Exim Bank, the National Bank, the State Bank of India, a corresponding new bank, a regional rural bank and a subsidiary bank.'.

29. In section 35 of the Banking Regulation Act,— Amendment of section 35.

(i) after sub-section (1), the following sub-section shall be inserted and shall be deemed to have always been so inserted, namely:—

"(1A) (a) Notwithstanding anything to the contrary contained in any law for the time being in force and without prejudice to the provisions of sub-section (1), the Reserve Bank, at any time, may also cause a scrutiny to be made by any one or more of its officers, of the affairs of any banking company and its books and accounts; and

(b) a copy of the report of the scrutiny shall be furnished to the banking company if the banking company makes a request for the same or if any adverse action is contemplated against the banking company on the basis of the scrutiny.";

(ii) in sub-section (2), after the words, brackets and figure "any officer making an inspection under sub-section (1)", the words, brackets, figure and letter "or a scrutiny under sub-section (1A)" shall be inserted;

(iii) in sub-section (3), after the words, brackets and figure "inspection under sub-section (1)", the words, brackets, figure and letter "or a scrutiny under sub-section (1A)", shall be inserted;

(iv) in sub-section (4), after the words "on any inspection", the words "or scrutiny"" shall be inserted,

Amendment of section 35B.

30. In section 35B of the Banking Regulation Act,—

(*i*) in sub-section (*1*), in clause (*a*), after the words "any provision relating to", the words "the maximum permissible number of directors or" shall be inserted;

(*ii*) in sub-section (*2*), for the words and figures "provisions of sections 310", the words and figures "provisions of sections 269, 310" shall be substituted;

(*iii*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*2A*) Nothing contained in section 198 of the Companies Act, 1956, shall apply to a banking company and the provisions of sub-section (*1*) of section 309 and of section 387 of that Act shall, in so far as they are applicable to a banking company, have effect as if no reference had been made in the said provisions to section 198 of that Act.". 1 of 1956.

Amendment of section 36AB.

31. In section 36AB of the Banking Regulation Act, in sub-section (*1*), the proviso shall be omitted.

Amendment of section 36AD.

32. In section 36AD of the Banking Regulation Act, for sub-section (*3*), the following sub-section shall be substituted, namely:—

'(*3*) For the purposes of this section "banking company" includes the Reserve Bank, the Development Bank, the Exim Bank, the National Bank, the State Bank of India, a corresponding new bank, a regional rural bank and a subsidiary bank.'.

Amendment of section 42.

33. In section 45 of the Banking Regulation Act,—

(*i*) for the words and figures "sections 460, 464 and 465", the word and figures "section 460" shall be substituted; and

(*ii*) the words "or with the appointment of a committee of inspection" shall be omitted.

Amendment of section 45.

34. In section 45 of the Banking Regulation Act,—

(*a*) in sub-section (*5*), in clause (*i*),—

(*i*) in the first proviso for the words "as are applicable", in the two places where they occur, the words "as are, at the time of such payment or grant, applicable" shall be substituted;

(*ii*) in the second proviso, for the words "the doubt or difference shall be referred", the words "the doubt or difference shall be referred, before the expiry of a priod of three years from the date of the payment or grant mentioned in that clause," shall be substituted;

(*b*) in sub-section (*8*), the following shall be inserted at the end, namely:—

"including the trustees or other persons managing, or connected in any other manner with, any provident fund or other fund maintained by any of those companies or the transferee bank";

(c) in sub-section (9), for the words "On and from such date as may be specified by the Central Government in this behalf", the words "On and from the date of the coming into operation of, or as the case may be, the date specified in this behalf in, the scheme" shall be substituted;

(d) in sub-section (15), for the words and figures "any other banking institution notified by the Central Government under section 51", the words "a subsidiary bank or a corresponding new bank" shall be substituted;

(e) the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—References in this section to the terms and conditions of service as applicable to an employee shall not be construed as extending to the rank and status of such employee.".

5 of 1898. 2 of 1974.

35. In sections 45A and 45J of the Banking Regulation Act, for the words and figures "Code of Criminal Procedure, 1898", wherever they occur, the words and figures "Code of Criminal Procedure, 1973" shall be ubstituted and in sub-section (5) of the said section 45J, the words "and all such trails shall be without the aid of a jury" shall be omitted. Amendment of sections 45A and 45J.

36. In section 45S of the Banking Regulation Act, for the words "Chief Presidency Magistrate or the District Magistrate", wherever they occur, the words "Chief Metropolitan Magistrate or the Chief Judicial Magistrate" shall be substituted. Amendment of section 45S.

37. After section 45X of the Banking Regulation Act, the following Part shall be inserted, namely:— Insertion of new Part IIIB.

"PART IIIB

PROVISIONS RELATING TO CERTAIN OPERATIONS OF BANKING COMPANIES

45Y. The Central Government may, after consultation with the Reserve Bank and by notification in the Official Gazette, make rules specifying the periods for which— Power of Central Government to make rules for the preservation of records.

(a) banking company shall preserve its books, accounts and other documents; and

(b) a banking company shall preserve and keep with itself different instruments paid by it.

45Z. (1) Where a banking company is required by its customer to return to him a paid instrument before the expiry of the period specified by rules made under section 45Y, the banking company shall not return the instrument except after making and keeping in its possession a true copy of all relevant parts of such instrument, such copy being made by a mechanical or other process which in itself ensures the accuracy of the copy. Return of paid instruments to customers.

(2) The banking company shall be entitled to recover from the customer the cost of making such copies of the instrument.

Explanation.—In this section, "customer" includes a Government department and a corporation incorporated by or under any law.

Nomination for payment of depositors' money.

45ZA. (*1*) Where a deposit is held by a banking company to the credit of one or more persons, the depositor or, as the case may be, all the depositors together, may nominate, in the prescribed manner, one person to whom in the event of the death of the sole depositor or the death of all the depositors, the amount of deposit may be returned by the banking company.

(*2*) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, in respect of such deposit, where a nomination made in the prescribed manner purports to confer on any person the right to receive the amount of deposit from the banking company, the nominee shall ,on the death of the sole depositor or, as the case may be, on the death of all the depositors, become entitled to all the rights of the sole depositor or, as the case may be, of the depositors, in relation to such deposit to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner.

(*3*) Where the nominee is a minor, it shall be lawful for the depositor making the nomination to appoint in the prescribed manner any person to receive the amount of deposit in the event of his death during the minorty of the nominee.

(*4*) Payment by a banking company in accordance with the provisions of this section shall constitute a full discharge to the banking company of its liability in respect of the deposit:

Provided that nothing contained in this sub-section shall affect the right or claim which any person may have against the person to whom any payment is made under this section.

Notice of claims of other persons regarding deposits not receivable.

45ZB. No notice of the claim of any person, other than the person or persons in whose name a deposit is held by a banking company shall be receivable by the banking company, nor shall the banking company be bound by any such notice even though expressly given to it:

Provided that where any decree, order, certificate or other authority from a court of competent jurisdiction relating to such deposit is produced before a banking company, the banking company shall take due note of such decree, order, certificate or other authority.

Nomination for return of articles kept in safe custody with banking company.

45ZC. (*1*) Where any person leaves any article in safe custody with a banking company, such person may nominate, in the prescribed manner, one person to whom, in the event of the death of the person leaving the article in safe custody, such article may be returned by the banking company.

(*2*) Where the nominee is a minor, it shall be lawful for the person making the nomination to appoint in the prescribed manner any person to receive the article deposited in the event of his death during the minority of the nominee.

(*3*) The banking company shall, before returning any articles under this section to the nominee or the person appointed under

sub section (2), prepare, in such manner as may be directed by the Reserve Bank from time to time, an inventory of the said articles which shall be signed by such nominee or person and shall deliver a copy of the inventory so prepared to such nominee or person.

(4) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, in respect of such article, where a nomination made in the prescribed manner purports to confer on any person the right to receive the article from the banking company, the nominee shall. on the death of the person leaving the article in safe custody, become entitled to the return of the article to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner:

Provided that nothing contained in this section shall affect the right or claim which any person may have against the person to whom the article is returned in pursuance of this sub-section.

Notice of claims of other pesrons regarding articles not receivable.

45ZD. No notice of the claim of any person, other than the person or persons in whose name any article is held by a banking company in safe custody, shall be receivable by the banking company, nor shall the banking company be bound by any such notice even though expressly given to it:

Provided that where any decree, order, certificate or other authority from a court of competent jurisdiction relating to such article is produced before a banking company, the banking company shall take due note of such decree, order, certificate or other authority.

Release of contents of safety lockers.

45ZE. (1) Where an individual is the sole hirer of a locker from a banking company, whether such locker is located in the safe deposit vault of such banking company or elsewhere, such individual may nominate one person to whom, in the event of the death of such individual, the banking company may give access to the locker and liberty to remove the contents of the locker.

(2) Where any such locker is hired from a banking company by two or more individuals jointly, and, under the contract of hire, the locker is to be operated under the joint signatures of two or more of such hirers, such hirers may nominate one or more persons to whom, in the event of the death of such joint hirer or hirers, the banking company may give, jointly with the surviving joint hirer or joint hirers, as the case may be, access to the locker and liberty to remove the contents of such locker.

(3) Every nomination under sub-section (1) or sub-section (2) shall be made in the prescribed manner.

(4) The banking company shall, before permitting the removal of the contents of any locker by any nominee or jointly by any nominee and survivors as aforesaid, prepare, in such manner as may be directed by the Reserve Bank from time to time, an inventory of the contents of the locker which shall be signed by such nominee

or jointly by such nominee and survivors and shall deliver a copy of the inventory so prepared to such nominee or nominee and survivors.

(5) On the removal of the contents of any locker by any nominee or jointly by any nominee and survivors as aforesaid, the liability of the banking company in relation to the contents of the locker shall stand discharged.

(6) No suit, prosecution or other legal proceeding shall lie against a banking company for any damage caused or likely to be caused, for allowing access to any locker, and liberty to romove the contents of such locker, in pursuance of the provisions of sub-section (1) or sub-section (2), as the case may be.

Notice of claims of other persons regarding safety lockers not receivable.

45ZF. No notice of the claim of any person, other than hirer or hirers of a locker, shall be receivable by a banking company nor shall the banking company be bound by any such notice even though expressly given to it:

Provided that where any decree, order, certificate or other authority from a court of competent jurisdiction relating to the locker or its contents is produced before the banking company, the banking company shall take due note of such decree, order, certificate or other authority.".

Amendment of section 46.

38. In section 46 of the Banking Regulation Act,—

(*i*) in sub-section (2), for the words "an officer making an inspection under that section", the words "an officer making an inspection or scrutiny under that section" shall be substituted;

(*ii*) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) If any other provision of this Act is contravened or if any default is made in—

(*i*) complying with any requirement of this Act or of any order, rule or direction made or condition imposed thereunder, or

(*ii*) carrying out the terms of, or the obligations under, a scheme sanctioned under sub-section (7) of section 45,

by any person, such person shall be punishable with fine which may extend to two thousand rupees, and where a contravention or default is a continuing one, with a further fine which may extend to one hundred rupees for every day, during which the contravention or default continues.".

Amendment of section 47.

39. In section 47 of the Banking Regulation Act, for the words "no court inferior to that of a Presidency Magistrate or a Magistrate of the first class", the words "no court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class or any court superior thereto" shall be substituted.

Amendment of section 51.

40. Section 51 of the Banking Regulation Act shall be re-numbered as sub-section (*1*) of that section, and—

(*a*) in sub-section (*1*) as so re-numbered—

(*i*) for the figures, words, brackets and letters "19 to 21, 23 to 28, 29 [excluding sub-section (*3*)], 31, 34, 35, 35A, 36 [excluding clause (*a*) of sub-section (*1*)], 46 to 48", the figures, words, letters and brackets "19 to 21A, 23 to 28, 29 [excluding sub-section (*3*)], 31, 34, 35, 35A, 36 [excluding clause (*d*) of sub-section (1)], 45Y, to 45ZF, 46 to 48" shall be substituted;

(*ii*) for the words, figures and brackets "or any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976 or any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, or any other banking institution notified by the Central Government in this behalf", the words "or any corresponding new bank or a Regional Rural Bank or any subsidiary bank" shall be substituted;

5 of 1970.

21 of 1976.

40 of 1980.

(*iii*) in the proviso,—

(*A*) in clause (*a*), for the words "general manager", the words "managing director" shall be substituted;

(*B*) for clauses (*b*) and (*c*), the following clauses shall be substituted, namely:—

"(*b*) nothing contained in sub-clause (*iii*) of clause (*b*) of sub-section (*1*) of section 20 shall apply to any bank referred to in sub-section (*1*), insofar as the said sub-clause (*iii*) of clause (*b*) precludes that bank from entering into any commitment for granting any loan or advance to or on behalf of a company (not being a Government company) in which not less than forty per cent of the paid-up capital is held (whether singly or taken together) by the Central Government or the Reserve Bank or a corporation owned by that bank; and

(*c*) nothing contained in section 46 or in section 47A shall apply to,—

(*i*) an officer of the Central Government or the Reserve Bank, nominated or appointed as director of the State Bank of India or any corresponding new bank or a Regional Rural Bank or any subsidiary bank or a banking company; or

(*ii*) an officer of the State Bank of India or a corresponding new bank or a Regional Rural Bank or a subsidiary bank nominated or appointed as director of any of the said banks (not being the bank of which he is an officer) or of a banking company.";

(*b*) after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely:—

"(*2*) References to a banking company in any rule or direction relating to any provision of this Act referred to in sub-section (*1*) shall, except where such rule or direction provides otherwise, be construed as referring also to the State Bank of India, a corresponding new bank, a Regional Rural Bank and a subsidiary bank.".

Amendment of section 52.

41. In section 52 of the Banking Regulation Act,—

(*a*) sub-section (*3*) shall be omitted;

(*b*) after sub-section (*4*), the following sub-section shall be inserted, namely:—

"(*5*) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

Amendment of section 56.

42. In section 56 of the Banking Regulation Act,—

(*i*) for sub-clause (*ii*) of clause (c), the following sub-clause shall be substituted, namely:—

"(*ii*) clauses (*ff*), (*h*) and (*nb*) shall be omitted;";

(*ii*) for clause (*f*), the following clause shall be substituted, namely:—

'(*f*) for section 7, the following section shall be substituted, namely:—

Use of words "bank", "banker" or "banking"

"7. (*1*) No co-operative society other than a co-operative bank shall use as part of its name or in connection with its business any of the words "bank", "banker" or "banking", and no co-operative society shall carry on the business of banking in India unless it uses as part of its name at least one of such words.

(*2*) Nothing in this section shall apply to—

(*a*) a primary credit society, or

(*b*) a co-operative society formed for the protection of the mutual interest of co-operative banks or co-operative land mortgage banks, or

(c) any co-operative society, not being a primary credit society, formed by the employees of—

(*i*) a banking company or the State Bank of India or a corresponding new bank or a subsidiary bank of such banking company, State Bank of India or a corresponding new bank, or

(*ii*) a co-operative bank or a primary credit society or a co-operative land mortgage bank,

insofar as the word "bank", "banker" or "banking" appears as part of the name of the employer bank, or as the case may be, of the bank, whose subsidiary the employer bank is." ';

(*iii*) after clause (*f*), the following clauses shall be inserted, namely:—

'(*fi*) in section 8, for the proviso, the following proviso shall be substituted, namely:—

"Provided that this section shall not apply—

(*a*) to any such business as aforesaid which was in the course of being transacted on the commencement of clause (*iii*) of section 42 of the Banking Laws (Amendment) Act, 1983, so, however, that the said business shall be completed before the expiry of one year from such commencement; or

(*b*) to any business as is specified in pursuance of clause (*d*) of sub-section (*1*) of section 6;";

(*fii*) in section 9, for the second proviso, the following provisos shall be substituted, namely:—

"Provided further that in the case of a primary credit society which becomes a primary co-operative bank after the commencement of clause (*iii*) of section 42 of the Banking Laws (Amendment) Act, 1983, the period of seven years shall commence from the day it so becomes a primary co-operative bank;

Provided also that the Reserve Bank may, in any particular case, extend the aforesaid period of seven years by such period as it may consider necessary where it is satisfied that such extension would be in the interests of the depositors of the co-operative bank." ';

(*iv*) in clause (*g*), for the figures and letters "10B, 10C", the figures and letters "10B, 10BB, 10C" shall be substituted;

(*v*) for clause (*j*), the following clause shall be substituted, namely:—

'(*j*) for section 18, the following section shall be substituted, namely:—

Cash reserve.

"18. (*1*) Every co-operative bank, not being a State co-operative bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934 (hereinafter referred to as a "scheduled State Co-operative Bank"), shall maintain in India by way of cash reserve with itself or by way of balance in a current account with the Reserve

2 of 1934.

Bank or the State co-operative bank of the State concerned or by way of net balance in current accounts, or, in the case of a primary co-operative bank, with the central co-operative bank of the district concerned, or in one or more of the aforesaid ways, a sum equivalent to at least three per cent. of the total of its demand and time liabilities in India, as on the last Friday of the second preceding fortnight and shall submit to the Reserve Bank before the fifteenth day of every month a return showing the amount so held on alternate Fridays during a month with particulars of its demand and time liabilities in India on such Fridays or if any such Friday is a public holiday under the Negotiable Instruments Act, 1881, at the close of business on the preceding working day. 26 of 1881.

Explanation.—In this section and in section 24—

(*a*) "liabilities in India" shall not include—

(*i*) the paid-up capital or the reserves or any credit balance in the profit and loss account of the co-operative bank;

(*ii*) any advance taken from a State Government, the Reserve Bank, the Development Bank, the Exim Bank, the National Bank or from the National Co-operative Development Corporation established under section 3 of the National Co-operative Development Corporation Act, 1962 by the co-operative bank; 26 of 1962.

(*iii*) in the case of a State or central co-operative bank, also any deposit of money with it representing the reserve fund or any part thereof maintained with it by any other co-operative society within its area of operation, and in the case of a central co-operative bank, also an advance taken by it from the State co-operative bank of the State concerned;

(*iv*) in the case of a primary co-operative bank, also any advance taken by it from the State co-operative bank of the State concerned or the central co-operative bank of the district concerned;

(*v*) in the case of any co-operative bank, which has granted an advance against any balance maintained with it, such balance to the extent of the amount outstanding in respect of such advance; and

(*vi*) in the case of any co-operative bank, the amount of any advance or other credit arrangement drawn and availed of against approved securities;

(*b*) "fortnight" shall mean the period from Saturday to the second following Friday, both days inclusive;

(*c*) "net balance in current accounts" shall, in relation to a co-operative bank, mean the excess, if any, of the aggregate of the credit balances in current account maintained by that co-operative bank with the State Bank of India or a subsidiary bank or a corres-

ponding new bank, over the aggregate of the credit balances in current accounts held by the said banks with such co-operative bank;

(*d*) for the purpose of computation of liabilities, the aggregate of the liabilities of a co-operative bank to the State Bank of India, a subsidiary bank, a corresponding new bank, a Regional Rural Bank, a banking company, or any other financial institution notified by the Central Government in this behalf shall be reduced by the aggregate of the liabilities of all such banks and institutions to the co-operative bank;

(*e*) any cash with a co-operative bank or any balance held by a co-operative bank with another bank, shall not, to the extent such cash or such balances represents the balance in, or investment of, Agricultural Credit Stabilisation Fund of such cooperative bank, be deemed to be cash maintained in India.

(*2*) The Reserve Bank may, for the purposes of this section and section 24, specify from time to time, with reference to any transaction or class of transactions, that such transaction or transactions shall be regarded as liability in India of a co-operative bank, and, if any question arises as to whether any transaction or class of transactions shall be regarded for the purposes of this section and section 24, as liability in India of a co-operative bank, the decision of the Reserve Bank thereon shall be final." ';

(*vi*) for clause (*m*), the following clause shall be substituted, namely:—

'(*m*) in section 20A, in sub-section (*1*),—

(*i*) the words and figures "Notwithstanding anything to the contrary contained in section 293 of the Companies Act, 1956," shall be omitted;

1 of 1956.

(*ii*) in clause (*a*), for the words "any of its directors", the words "any of its past or present directors" shall be substituted;' ;

(*vii*) in clause (*o*) relating to the modification of section 22,—

(*A*) in sub-clause (*i*), for sub-section (*2*) of section 22 aforesaid as substituted by that sub-clause, the following sub-section shall be substituted, namely:—

"(2) Every co-operative society carrying on business as a co-operative bank at the commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965, shall before the expiry of three months from the commencement, every co-operative bank which comes into existence as a result of the division of any other co-operative society carrying on business as a co-operative bank, or the amalgamation of two or more co-operative societies carrying on banking business shall, before the expiry of three months from its so coming into existence, every primary credit society which becomes a primary co-operative bank after such commencement shall before the expiry of three months

23 of 1965.

from the date on which it so becomes a primary co-operative bank and every co-operative society other than a primary credit society shall before commencing banking business in India, apply in writing to the Reserve Bank for a licence under this section:

Provided that nothing in clause (*b*) of sub-section (*1*) shall be deemed to prohibit—

(*i*) a co-operative society carrying on business as a co-operative bank at the commencement of the Banking Laws (Application to co-operative Societies) Act, 1965; or

23 of 1965.

(*ii*) a co-operative bank which has come into existence as a result of the division of any other co-operative society carrying on business as a co-operative bank, or the amalgamation of two or more co-operative societies carrying on banking business at the commencement of the Banking Laws application to Co-operative Societies) Act, 1965 or at any time thereafter; or 23 of 1965.

(*iii*) a primary credit society which becomes a primary co-operative bank after such commencement,

from carrying on banking business until it is granted a licence in pursuance of this section or is, by a notice in writing, notified by the Reserve Bank that the licence cannot be granted to it.";

(*B*), for sub-clause (*ii*), the following sub-clauses shall be substituted, namely:—

"(*ii*) sub-section (*3A*) shall be omitted;

(*iii*) in sub-section (*4*) in clause (*iii*), the words, brackets, figure and letter "and sub-section (*3A*)" shall be omitted;";

(*viii*) in clause (*p*), for sub-clause (*ii*), the following sub-clause shall be substituted, namely:—

'(*ii*) after sub-section (*4*), the following sub-section shall be inserted, namely:—

"(*4A*) Any co-operative bank other than a primary co-operative bank requiring the permission of the Reserve Bank under this section shall forward its application to the Reserve Bank through the National Bank which shall give its comments on the merits of the application and sent it to the Reserve Bank:

Provided that the co-operative bank shall also send an advance copy of the application directly to the Reserve Bank." ';

(*ix*) for clause (*q*), the following clause shall be substituted, namely:—

'(*q*) in section 24,—

(*i*) in sub-section (*1*) the words "After the expiry of two years from the commencement of this Act" shall be omitted;

(*ii*) for sub-sections (*2*) and (*2A*), the following sub-sections shall be substituted, namely:—

"(*2*) In computing the amount for the purposes of sub-section (*1*),—

(*a*) any balances maintained in India by a co-operative bank in current account with the Reserve Bank or by way of net balance in current accounts, and in the case of a scheduled State co-operative bank, also the balance required under section 42 of the Reserve Bank of India Act, 1934, to be so maintained, 2 of 1934.

(*b*) any balances maintained by a central co-operative bank with the State co-operative bank of the State concerned, and

(*c*) any balances maintained by a primary co-operative bank with central co-operative bank of the district concerned or with the State co-operative bank of the State concerned,

shall be deemed to be cash maintained in India.

(*2A*) (*a*) Notwithstanding anything contained in sub-section (*1*) or in sub-section (*2*), after the expiry of two years from the commencement of the Banking Laws (Application to Co-operative Societies) Act 1965, or of such further period not exceeding one year as the Reserve Bank, having regard to the interests of the co-operative bank concerned, may think fit in any particular case to allow,— 23 of 1965.

(*i*) a scheduled State co-operative bank, in addition to the average daily balance which it is or may be, required to maintain under section 42 of the Reserve Bank of India Act, 1934, and 2 of 1934.

(*ii*) every other co-operative bank, in addition to the cash reserve which it is required to maintain under section 18,

shall maintain in India, in cash, or in gold valued at a price not exceeding the current market price or in unencumbered approved securities valued at a price determined in accordance with such one or more of, or combination of, the following methods of valuation, namely, valuation with reference to cost price, market price, book value, as may be specified by the Reserve Bank from time to time, an amount which shall not, at the close of business on any day, be less than twenty-five per cent. or such other percentage not exceeding forty per cent. as the Reserve Bank may, from time to time, by notification in the Official Gazette, specify, of the total of its demand and time liabilities in India, as on the last Friday of the second preceding fortnight.

(*b*) In computing the amount for the purpose of clause (*a*), the following shall be deemed to be cash maintained in India, namely:—

(*i*) any balance maintained by a scheduled State co-operative bank with the Reserve Bank in excess of the balance required to be maintained by it under section 42 of the Reserve Bank of India Act, 1934; 2 of 1934.

(*ii*) any cash or balances maintained in India by a co-operative bank, other than a scheduled State co-operative bank, with itself or with the State co-operative bank of the State concerned, or in current account with the Reserve Bank or by way of net balance in current accounts and, in the case of a primary co-operative bank, also any balances maintained with the central co-operative bank of the district concerned, in excess of the aggregate of the cash or balances required to be maintained under section 18;

(*iii*) any net balance in current accounts.

Explanation.—For the purposes of this sub-section—

(*a*) approved securities, or a portion thereof, representing investment of moneys of Agricultural Credit Stabilisation Fund of a co-operative bank shall not be deemed to be unencumbered approved securities;

(*b*) in case a co-operative bank has taken an advance against any balance maintained with the State co-operative bank of the State concerned or with the central co-operative bank of the district concerned, such balance to the extent to which it has been drawn against or availed of shall not be deemed to be cash maintained in India;

(*c*) for the purpose of clause (*a*), the market price of an approved security shall be the price as on the date of the issue of the notification or as on any earlier or later date, as may be notified from time to time by the Reserve Bank in respect of any class or classes of securities;";

(*iii*) in sub-section (3), for the proviso, the following proviso shall be substituted, namely:—

"Provided that every co-operative bank, other than a primary co-operative bank, shall also furnish within the said period, a copy of the said return to the National Bank.";

(*iv*) in sub-section (6), in clause (*a*), for the words "fourteen days", the words "thirty days" shall be substituted;";

(*x*) after clause (*q*), the following clause shall be inserted, namely:—

'(*qq*) after section 24, the following section shall be inserted, namely:—

"24A. Without prejudice to the provisions of section 53, the Reserve Bank may, by notification in the Official Gazette, declare that, for such period and subject to such conditions as may be specified in such notification the whole or any part of the provisions of section 18 or section 24, as may be specified therein, shall not apply to any co-operative bank or class of co-operative banks, with reference to all or any of the offices of such co-operative bank or banks, or with reference to the whole or any part of the assets and liabilities of such co-operative bank or banks." '; Power to exempt.

(*xi*) in clause (*w*) relating to the modification of section 35,—

(*a*) in sub-clause (*i*), for item (*b*), the following item shall be substituted, namely:—

'(*b*) the following proviso shall be inserted at the end, namely:—

"Provided that the Reserve Bank may, if it considers it necessary or expedient so to do, cause an inspection to be made of a primary co-operative bank under this sub-section by one or more officers of a State co-operative bank in the State in which such primary co-operative bank is registered." ';

(*b*) sub-clauses (*iii*) and (*iv*) shall be re-numbered as sub-clauses (*iv*) and (*v*) respectively and before sub-clause (*iv*) as so re-numbered, the following sub-clause shall be inserted, namely:—

'(*iii*) after sub-section (4), the following sub-section shall be inserted, namely:—

"(*4A*) Without prejudice to the provisions of sub-section (*4*), the Reserve Bank may, if it considers it necessary or expedient so to do supply a copy of the report on any inspection or scrutiny to the State co-operative bank and the Registrar of co-operative societies of the State in which the bank which has been inspected or whose affairs have been scrutinised is registered." ';

(*xii*) for clause (*z*), the following clause shall be substituted, namely:—

'(*z*) in section 36, in sub-section (*1*),—

(*a*) clause (*b*) shall be omitted;

(*b*) for clause (*d*), the following clause shall be substituted, namely:—

"(*d*) at any time, if it is satisfied that for the re-organisation or expansion of co-operative credit on sound

lines it is necessary so to do, by an order in writing and on such terms and conditions as may be specified therein,—

(*i*) depute one or more of its officers to watch the proceedings at any meeting of the Board of directors of the co-operative bank or of any other body constituted by it and require the co-operative bank to give an opportunity to the officer so deputed to be heard at such meetings and to offer such advice on such matters as the officer may consider necessary or proper for the reorganisation and expansion of co-operative credit on sound lines, and also require such officer to send a report of such proceedings to the Reserve Bank;

(*ii*) appoint one or more of its officers to observe the manner in which the affairs of the co-operative bank or its offices or branches are being conducted and make a report thereon;" ';

(*xiii*) in clause (*za*) relating to the modification of section 36A, in sub-clause (*ii*), in sub-section (*3*) as inserted by that sub-clause, for the words, brackets, letters and figure "in clause (*ccc*) of section 5", the words, brackets, letters and figure "in clause (*ccv*) of section 5" shall be substituted;

(*xiv*) after clause (*za*), the following clause shall be inserted, namely:—

"(*zaa*) in section 36AD, sub-section (*3*) shall be omitted;";

(*xv*) for clause (*zc*), the following clause shall be substituted, namely:—

'(*zc*) in section 46,—

(*i*) in sub-section (*4*), the word "or" occurring at the end of clause (*i*) and clause (*ii*) shall be omitted;

(*ii*) in clause (*a*) of the *Explanation*, after the words "includes a", the words "co-operative society" shall be inserted;'.

CHAPTER V

AMENDMENTS TO THE STATE BANK OF INDIA ACT, 1955

Insertion of new section 35A.

43. In Chapter VI, after section 35 of the State Bank of India Act, 1955 (hereafter in this Chapter referred to as the State Bank Act), the following section shall be inserted, namely:— 23 of 1955.

Arrangement with the State Bank on appointment of directors to prevail.

"35A. (*1*) Where any arrangement entered into by the State Bank with a company provides for the appointment by the State Bank of one or more directors of such company, such provisions and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the company, and any provision regarding share qualification, age limit, number of directorships, removal from 1 of 1956.

office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the State Bank in pursuance of the arrangement as aforesaid.

(2) Any director appointed as aforesaid shall—

(a) hold office during the pleasure of the State Bank and may be removed or substituted by any person by order in writing of the State Bank;

(b) not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto;

(c) not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement.".

Amendment of section 40.

44. In section 40 of the State Bank Act,—

(i) in sub-section (1), for the words "auditors' report on the working of the State Bank", the words "auditors' report and a report by the Central Board on the working and activities of the State Bank" shall be substituted;

(ii) after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) The Central Government shall cause the auditors' report and the report by the Central Board on the working and activities of the State Bank to be laid, as soon as may be after they are received, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions.".

Amendment of section 42.

45. In section 42 of the State Bank Act, in sub-section (2), after the word "working", the words "and activities" shall be inserted.

Amend ment of section 43.

46. In section 43 of the State Bank Act, in sub-section (2), for the words "as may be", the words "as may, by general or special order, be" shall be substituted.

Amendment of section 49.

47. In section 49 of the State Bank Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case

may be; so, however, that any such modification or annulment shall be without prejudice to the validity of any thing previously done under that rule.".

Amendment of section 50.

48. In section 50 of the State Bank Act, after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) Every regulation shall, as soon as may be after it is made under this Act by the Central Board, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.".

CHAPTER VI

AMENDMENTS TO THE STATE BANK OF INDIA (SUBSIDIARY BANKS) ACT, 1959

Insertion of new section 36A.

49. After section 36 of the State Bank of India, (Subsidiary Banks) Act, 1959 (hereafter in this Chapter referred to as the Subsidiary Banks Act), the following section shall be inserted, namely:— **38 of 1959.**

Subsidiary bank to act as agent of the Reserve Bank.

"36A. (*1*) A subsidiary bank shall, if so required by the Reserve Bank, act as agent of the Reserve Bank at all places in India, where it has a branch, for—

(*a*) paying, receiving, collecting and remitting money, bullion and securities on behalf of any Government in India; and

(*b*) undertaking and transacting any other business which the Reserve Bank may from time to time entrust to it.

(*2*) The terms and conditions on which any such agency business shall be carried on by the subsidiary bank on behalf of the Reserve Bank shall be such as may be agreed upon.

(*3*) If, no agreement can be reached on any matter referred to in sub-section (*2*) or if a dispute arises between a subsidiary bank and the Reserve Bank as to the interpretation of any agreement between them, the matter shall be referred to the Central Government and the decision of the Central Government thereon shall be final.

(*4*) A subsidiary bank may transact any business or perform any functions entrusted to it under sub-section (*1*), by itself or through any agent approved by the Reserve Bank."

50. After section 38 of the Subsidiary Banks Act, the following section shall be inserted, namely:— Insertion of new section 38A.

"38A. (1) Where any arrangement entered into by a subsidiary bank with a company provides for the appointment by the subsidiary bank of one or more directors of such company, such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the company, and any provision regarding share qualification, age limit, number of directorships, removal from office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the subsidiary bank in pursuance of the arrangement as aforesaid. Arrangement with subsidiary banks on appointment of directors to prevail.

1 of 1956.

(2) Any director appointed as aforesaid shall—

(a) hold office during the pleasure of the subsidiary bank and may be removed or substituted by any person by order in writing of the subsidiary bank;

(b) not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto;

(c) not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement.".

51. In section 43 of the Subsidiary Banks Act,— Amendment of section 43.

(i) in sub-section (1),—

(a) in the opening portion, for the words "and the Reserve Bank", the words ", the Reserve Bank and the Central Government" shall be substituted;

(b) in clause (a), after the words "on the working", the words "and activities" shall be inserted;

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) The Central Government shall cause the auditor's report and the report by the Board of directors on the working and activities of the subsidiary bank to be laid, as soon as may be after they are received, before each House of Parliament,

while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive session.".

Amendment of section 44.

52. In section 53 of the Subsidiary Banks Act, after sub-section (*2*),

(*a*) in sub-section (*1*), in the proviso, for the words "the State Bank, or to the Reserve Bank", the words "the State Bank, the Reserve Bank or the Central Government" shall be substituted;

(*b*) in sub-section (*2*), after the word "working", the words "and activities" shall be inserted.

Amendment of section 53.

53. In section 53 of the Subsidiary Banks Act, after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*3*) Where the State Bank nominates any of its officers as director of a subsidiary bank, such director shall not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as director or anything in relation thereto.".

Amendment of section 62.

54. In section 62 of the Subsidiary Banks Act, for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

Amendment of section 63.

55. In section 63 of the Subsidiary Banks Act, after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) Every regulation shall, as soon as may be after it is made under this Act by the State Bank, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall hereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.".

CHAPTER VII

AMENDMENTS TO THE DEPOSIT INSURANCE AND CREDIT GUARANTEE CORPORATION ACT, 1961

Amendment of section 2.

47 of 1961.

56. In section 2 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (hereafter in this Chapter referred to as the Deposit Insurance Corporation Act),—

(*a*) in clause (*b*), for the words and figures ", a subsidiary bank and any other banking institution notified under section 51 of the Banking Regulation Act, 1949", the words "and a subsidiary bank" shall be substituted;

10 of 1949.

(*b*) for clause (*ee*), the following clause shall be substituted, namely:—

'(*ee*) "corresponding new bank" means a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or, as the case may be, under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;';

5 of 1970.

40 of 1980.

(*c*) in clause (*i*),—

(*i*) after the words "banking company", at the first place where they occur, the words "or a corresponding new bank" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 1971;

(*ii*) for sub-clause (*i*), the following sub-clauses shall be substituted and shall be deemed to have been substituted with effect from the 19th day of July, 1969, namely:—

"(*i*) a banking company referred to in clause (*a*) or clause (*b*) of sub-section (*1*) of section 13, or

(*ia*) a corresponding new bank to which the provisions of clause (*a*) of sub-section (*1*) of section 13 apply, or";

(*d*) in clause (*k*), the words and figures ", and includes any banking institution notified under section 51 of the said Act after such commencement" shall be omitted.

Amendment of section 4.

57. In section 4 of the Deposit Insurance Corporation Act, in sub-section (*1*), for the words "fifteen crores of rupees", the words "fifty crores of rupees" shall be substituted.

Amendment of section 6.

58. In section 6 of the Deposit Insurance Corporation Act,—

(*a*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(2) (*i*) A director nominated under clause (*b*) or clause (*c*) of sub-section (*1*) shall hold office during the pleasure of the authority nominating him; and

(*ii*) A director nominated under clause (*d*) or clause (*e*) of sub-section (*1*), shall hold office for such period not exceeding four years as may be specified by the Central Government and thereafter until his successor assumes office.";

(*b*) in sub-section (*3*), in the opening portion, after the word, brackets and letter "clause (*d*)", the words, brackets and letter "or clause (*e*)" shall be inserted;

(*c*) after sub-section (*4*), the following sub-section shall be inserted, namely:—

"(*5*) If a director nominated under clause (*e*) of sub-section (*1*)—

(*a*) becomes subject to any of the disqualifications mentioned in clauses (*a*) to (*d*) of sub-section (*3*); or

(*b*) is absent without leave of the Board for more than three consecutive meetings thereof,

his seat shall thereupon become vacant.".

Amendment of section 11.

59. In section 11 of the Deposit Insurance Corporation Act, the words and figures ", or, as the case may be, after it is notified under section 51 of the said Act" shall be omitted.

Amendment of section 13.

60. In section 13 of the Deposit Insurance Corporation Act, in sub-sections (*2*) and (*3*), the brackets and letter "(*b*)," shall be omitted.

Amendment of section 13A.

61. In section 13A of the Deposit Insurance Corporation Act, in clause (*b*) of sub-section (*2*), after sub-clause (*ii*), the following sub-clause shall be inserted, namely:—

"(*iii*) every co-operative bank which has come into existence after the commencement of the Deposit Insurance Corporation (Amendment) Act, 1968, as a result of the division of any other co-operative society carrying on business as a co-operative bank, or the amalgamation of two or more co-operative societies carrying on banking business, at the commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965, or at any time thereafter, within three months of its having made an application for a licence under the said section:". 56 of 1968. 23 of 1965.

Amendment of section 16.

62. In section 16 of the Deposit Insurance Corporation Act, in sub-section (*1*), in the proviso, for the words and figures "of section 13", the words, brackets and figures "of sub-section (*1*) of section 13" shall be substituted and shall be deemed to have been substituted with effect from the 19th day of July, 1969.

Amendment of section 32.

63. In section 32 of the Deposit Insurance Corporation Act, in sub-section (*2*), for the words "for not less than thirty days before each House of Parliament as soon as may be after each such report is received by the Central Government", the words "as soon as may be after they are received before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions" shall be substituted.

Amendment of section 50.

64. In section 50 of the Deposit Insurance Corporation Act, after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) Every regulation shall, as soon as may be after it is made under this Act by the Board, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation, or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.".

CHAPTER VIII

AMENDMENTS TO THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1970

5 of 1970.

Amendment of section 3.

65. In section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (hereafter in this Chapter referred to as the Bank Nationalisation Act),—

(*i*) in sub-section (*5*), for the words "one or more forms of business", the words "one or more of the other forms of business" shall be substituted;

(*ii*) after sub-section (*6*), the following sub-section shall be inserted, namely:—

"(*7*) (*i*) The corresponding new bank shall, if so required by the Reserve Bank, act as agent of the Reserve Bank at all places in India where it has a branch, for—

(*a*) paying, receiving, collecting and remitting money, bullion and securities on behalf of any Government in India; and

(*b*) undertaking and transacting any other business which the Reserve Bank may from time to time entrust to it.

(*ii*) The terms and conditions on which any such agency business shall be carried on by the corresponding new bank on behalf of the Reserve Bank shall be such as may be agreed upon.

(*iii*) If no agreement can be reached on any matter referred to in clause (*ii*), or if a dispute arises between the corresponding new bank and the Reserve Bank as to the interpretation of any agreement between them, the matter shall be referred to the Central Government and the decision of the Central Government thereon shall be final.

(*iv*) The corresponding new bank may transact any business or perform any functions entrusted to it under clause (*i*) by itself or through any agent approved by the Reserve Bank.".

Amendment of section 9.

66. In section 9 of the Bank Nationalisation Act,—

(*i*) sub-section (*5*) shall be re-numbered as sub-section (*6*) and before sub-section (*6*) as so re-numbered, the following sub-section and *Explanation* shall be inserted, namely:—

'(*5*) On and from the date of coming into operation of a scheme made under this section with respect to any of the matters referred to in clause (*c*) of sub-section (*2*) or any matters incidental, consequential and supplemental thereto,—

(*a*) the scheme shall be binding on the corresponding new bank or corporations or banking institutions, and also on the members, if any, the depositors, and other creditors and employees of each of them and on any other persons having any right or liability in relation to any of them including the trustees or other persons, managing or in any other manner connected with, any provident fund or other fund maintained by any of them;

(*b*) the properties and assets of the corresponding new bank, or as the case may be, of the banking institution shall, by virtue of and to the extent provided in the scheme, stand transferred to, and vested in, and the liabilities of the corresponding new bank, or, as the case may be, of the banking institution shall, by virtue of, and to the extent provided in the scheme, stand transferred to, and become the liabilities of, the corporation or corporations brought into existence by reconstitution of the banking institution or the corresponding new bank, as the case may be.

Explanation.—In this section, "banking institution" means a banking company and includes the State Bank of India or a subsidiary bank.'.

(*ii*) in sub-section (*6*) as so re-numbered, for the words "which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following", the words "which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

Amendment of section 10.

67. In section 10 of the Bank Nationalisation Act,—

(*i*) after sub-section (*4*), the following *Explanations* shall be inserted, namely:—

"*Explanation I.*—For the purposes of this Act—

(*a*) the balance-sheet shall not be treated as not disclosing a true and fair view of the affairs of the corresponding new bank, and

(*b*) the profit and loss account shall not be treated as not showing a true balance of profit or loss for the period covered by such account,

merely by reason of the fact that the balance-sheet or, as the case may be, the profit and loss account, does not disclose any

10 of 1949.

matters which are by the provisions of the Banking Regulation Act, 1949, read with the relevant provisions of this Act or any other Act, not required to be disclosed.

Explanation II.—For the purposes of this Act the accounts of the corresponding new bank shall not be deemed as having not been properly drawn up on the ground merely that they do not disclose certain matters if—

(*i*) those matters are such as the corresponding new bank is, by virtue of any provision contained in the Banking Regulation Act, 1949, read with the relevant provisions of this Act, or any other Act, not required to disclose; and

10 of 1949.

(*ii*) the provisions referred to in clause (*i*) are specified in the balance-sheet and profit and loss account of the corresponding new bank or in the auditor's report.";

(*ii*) after sub-section (7), the following sub-section shall be inserted, namely:—

"(7A) Every corresponding new bank shall furnish to the Central Government the annual balance-sheet, the profit and loss account, and the auditor's report and a report by its Board of directors on the working and activities of the bank during the period covered by the accounts.";

(*iii*) in sub-section (8), for the words "for not less than thirty days before each House of Parliament as soon as may be after each such report is received by the Central Government", the words "as soon as may be after they are received before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions" shall be substituted;

(*iv*) after sub-section (8), the following sub-section shall be inserted, namely:—

"(9) Without prejudice to the foregoing provisions, the Central Government may, at any time, appoint such number of auditors as it thinks fit to examine and report on the accounts of a corresponding new bank and the auditors so appointed shall have all the rights, privileges and authority in relation to the audit of the accounts of the corresponding new bank which an auditor appointed by the corresponding new bank has under this section.".

Insertion of new section 16A.

68. After section 16 of the Bank Nationalisation Act, the following section shall be inserted, namely:—

Arrangement with corresponding new bank on appointment of directors to prevail.

"16A. (1) Where any arrangement entered into by a corresponding new bank with a company provides for the appointment by the corresponding new bank of one or more directors of such company, such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the Company, and

1 of 1956.

any provision regarding share qualification, age limit, number of directorships, removal from office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the corresponding new bank in pursuance of the arrangement as aforesaid.

(2) Any director appointed as aforesaid shall—

(a) hold office during the pleasure of the corresponding new bank and may be removed or substituted by any person by order in writing of the corresponding new bank;

(b) not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto;

(c) not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement.".

Amendment of section 19.

69. In section 19 of the Bank Nationalisation Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) Every regulation shall, as soon as may be after it is made under this Act by the Board of directors of a corresponding new bank, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.".

CHAPTER IX

AMENDMENTS TO THE REGIONAL RURAL BANKS ACT, 1976

Amendment of section 30

70. Section 30 of the Regional Rural Banks Act, 1976 shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:— 21 of 1976

"(2) Every regulation shall, as soon as may be after it is made under this Act by the Board of directors, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.".

CHAPTER X

Amendment of section 3.

AMENDMENTS TO THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1980

71. In section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 [hereafter in this Chapter referred to as the Bank (Second) Nationalisation Act],— 40 of 1980.

(*i*) in sub-section (5), for the words "one or more forms of business", the words "one or more of the other forms of business" shall be substituted;

(*ii*) after sub-section (6), the following sub-section shall be inserted, namely:—

"(7) (*i*) The corresponding new bank shall, if so required by the Reserve Bank, act as agent of the Reserve Bank at all places in India where it has a branch, for—

(*a*) paying, receiving, collecting and remitting money, bullion and securities on behalf of any Government in India; and

(*b*) undertaking and transacting any other business which the Reserve Bank may from time to time entrust to it.

(*ii*) The terms and conditions on which any such agency business shall be carried on by the corresponding new bank on behalf of the Reserve Bank shall be such as may be agreed upon.

(*iii*) If no agreement can be reached on any matter referred to in clause (*ii*), or if a dispute arises between the corresponding new bank and the Reserve Bank as to the interpretation of any agreement between them, the matter shall be referred to the Central Government and the decision of the Central Government thereon shall be final.

(*iv*) The corresponding new bank may transact any business or perform any functions entrusted to it under clause (*i*), by itself or through any agent approved by the Reserve Bank.".

Amendment of section 9.

72. In section 9 of the Bank (Second) Nationalisation Act, sub-section (5) shall be re-numbered as sub-section (6) and before sub-section (6) as so re-numbered, the following sub-section and *Explanation* shall be inserted, namely:—

'(5) On and from the date of coming into operation of a scheme made under this section with respect to any of the matters referred to in clause (c) of sub-section (2) or any matters incidental, consequential and supplemental thereto,—

(*a*) the scheme shall be binding on the corresponding new bank or corporations or banking institutions, and also on the members, if any, the depositors, and other creditors and employees of each of them and on any other persons having any right or liability in relation to any of them including the trustees or other persons, managing or in any other manner connected with, any provident fund or other fund maintained by any of them;

(*b*) the properties and assets of the corresponding new bank or, as the case may be, of the banking institution shall, by virtue of and to the extent provided in the scheme, stand transferred to, and vested in, and the liabilities of the corresponding new bank or, as the case may be, of the banking institution shall, by virtue of, and to the extent provided in the scheme, stand transferred to, and become the liabilities of, the corporation or corporations brought into existence by reconstitution of the banking institution or the corresponding new bank, as the case may be.

Explanation.—In this section, "banking institution" means a banking company and includes the State Bank of India or a subsidiary bank.'.

Amendment of section 10.

73. In section 10 of the Bank (Second) Nationalisation Act,—

(*i*) after sub-section (*4*), the following *Explanations* shall be inserted, namely:—

"*Explanation I.*—For the purposes of this Act,—

(*a*) the balance-sheet shall not be treated as not disclosing a true and fair view of the affairs of the corresponding new bank, and

(*b*) the profit and loss account shall not be treated as not showing a true balance of profit or loss for the period covered by such account,

merely by reason of the fact that the balance-sheet or, as the case may be, the profit and loss account, does not disclose any matters which are by the provisions of the Banking Regulation Act, 1949, read with the relevant provisions of this Act or any other Act, not required to be disclosed. 10 of 1949.

Explanation II.—For the purposes of this Act, the accounts of the corresponding new bank shall not be deemed as having not been properly drawn up on the ground merely that they do not disclose certain matters if—

(*i*) those matters are such as the corresponding new bank is, by virtue of any provision contained in the Banking Regulation Act, 1949, read with the relevant provisions of this Act, or any other Act, not required to disclose; and 10 of 1949.

(*ii*) the provisions referred to in clause (*i*) are specified in the balance-sheet and profit and loss account of the corresponding new bank or in the auditor's report.";

(*ii*) after sub-section (*7*), the following sub-section shall be inserted, namely:—

"(*7A*) Every corresponding new bank shall furnish to the Central Government the annual balance-sheet, the profit and loss account, and the auditor's report and a report by its Board of directors on the working and activities of the bank during the period covered by the accounts.";

(*iii*) in sub-section (*8*), for the words "for not less than thirty days before each House of Parliament as soon as may be after each such report is received by the Central Government", the words "as soon as may be after they are received before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions" shall be substituted;

(*iv*) after sub-section (*8*), the following sub-section shall be inserted, namely:—

"(*9*) Without prejudice to the foregoing provisions, the Central Government may, at any time, appoint such number of auditors as it thinks fit to examine and report on the accounts of a corresponding new bank and the auditors so appointed shall have all the rights, privileges and authority in relation to the audit of the accounts of the corresponding new bank which an auditor appointed by the corresponding new bank has under this section.".

Insertion of new section 16A.

74. After section 16 of the Bank (Second) Nationalisation Act, the following section shall be inserted, namely:—

Arrangement with corresponding new bank on appointment of directors to prevail.

"16A. (*1*) Where any arrangement entered into by a corresponding new bank with a company provides for the appointment by the corresponding new bank of one or more directors of such company, such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the company, and any provision regarding share qualification, age limit, number of directorships, removal from office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the corresponding new bank in pursuance of the arrangement as aforesaid.

1 of 1956.

(*2*) Any director appointed as aforesaid shall—

(*a*) hold office during the pleasure of the corresponding new bank and may be removed or substituted by any person by order in writing of the corresponding new bank;

(*b*) not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto;

(*c*) not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement.".

Amendment of section 19

75. In section 19 of the Bank (Second) Nationalisation Act, after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) Every regulation shall, as soon as may be after it is made under this Act by the Board of directors of a corresponding new

bank, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.".

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to amend the Bankers' Books Evidence Act, 1891, the Reserve Bank of India Act, 1934, the Banking Regulation Act, 1949, the State Bank of India Act, 1955, the State Bank of India (Subsidiary Banks) Act, 1959, the Deposit Insurance and Credit Guarantee Corporation Act, 1961, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the Regional Rural Banks Act, 1976 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, in pursuance of the recommendations of the Banking Commission and of the Committee on Subordinate Legislation and also in the light of the experience gained in the administration of those Acts. The following are the more important amendments proposed in the Bill:—

(*i*) It is proposed to provide for the facility of nomination to a "depositor", to nominate a person who could be paid, on the depositor's death, the amount to the credit of the depositor's accounts. Likewise, the nominee of a person who has kept articles in safe custody with the bankers or has hired a locker will be able to get the articles kept in the bank's safe custody or locker in the event of the death of such a person. The banks will be required to keep an inventory of the articles returned to the persons concerned in such manner as may be directed by the Reserve Bank from time to time.

(*ii*) The scope of the purposes for which banks can form subsidiaries is being widened.

(*iii*) It is proposed to authorise the Reserve Bank to increase the statutory liquidity ratio to be maintained in India by banks from 25 per cent. up to a maximum of 40 per cent. of the total demand and time liabilities of a bank in India and also to empower the Reserve Bank to impose penalties on banks which do not comply with the liquidity requirements of section 24 of the Banking Regulation Act, 1949, on the lines of similar provisions regarding maintenance of cash reserves contained in section 42 of the Reserve Bank of India Act, 1934. It is also proposed to change the period for filing of returns from weekly to fortnightly and to empower the Reserve Bank to specify the mode of valuation of security.

(*iv*) Section 42 of the Reserve Bank of India Act, 1934 is being amended to provide that the concept of average daily balance will now be linked to balances held at the close of business on each day of a fortnight instead of a week and to enable the scheduled banks to file fortnightly returns on each alternate Friday in a month instead of on each Friday of the month.

(v) Sections 45R, 45S and 45T of new Chapter IIIC, sought to be inserted in the Reserve Bank of India Act, 1934, provide that no individual or firm or an unincorporated association of individuals shall, at any time, have deposits from more than the specified number of depositors mentioned therein. The officers of the Reserve Bank or the State Governments, authorised in this behalf, will have power to obtain search warrant from a court so as to enable them to enter into and search any premises suspected to be used for purposes connected with the receipt of deposits in contravention of the provisions of the Act.

(vi) It is proposed to amend the State Bank of India Act, 1955 and the State Bank of India (Subsidiary Banks) Act, 1959 for laying before each House of Parliament, as in the case of nationalised banks, the auditors' report and the annual report on the working and the activities of the banks.

(vii) The Banking Regulation Act, 1949 is being amended—

(*a*) to empower the Central Government to frame rules specifying the periods for the preservation of the various types of records, such as, books, accounts and other documents as also of the different instruments paid by banks;

(b) to provide that banks may return at the request of a customer a paid instrument before the prescribed preservation period, only after making and keeping in the bank's possession a true copy of all relevant parts thereof made by mechanical or other processes ensuring the accuracy of the copy.

(viii) The Bankers' Books Evidence Act, 1891 is being amended—

(a) to provide that during police investigations it would be sufficient for a bank to produce before police authorities certified copies of relevant extracts from its books unless the production of copies is considered not adequate by an officer of a rank not lower than the rank of a Superintendent of Police;

(b) to make it clear that if the original documents are destroyed by a bank in the usual course of its business and the copies of documents have been obtained by mechanical or other process before such destruction they shall be admissible in evidence.

(ix) It is further proposed to amend the State Bank of India Act, 1955, the State Bank of India (Subsidiary Banks) Act, 1959 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, so as to provide a certain measure of protection to the directors nominated by such banks on the boards of companies assisted by them against prosecution as a result of non-compliance with provisions like share qualification, age limit, number of directorships, removal from office, retirement by rotation, etc., contained in the Companies Act, 1956 or any other law or the memorandum or articles of association or any other instrument of the concerned company.

(*x*) It is further proposed to include the usual provision for laying of rules and regulations made under Acts before Parliament in the Banking Regulation Act, 1949, the State Bank of India Act, 1955, the State Bank of India (Subsidiary Banks) Act, 1959, the Deposit Insurance and Credit Guarantee Corporation Act, 1961, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the Regional Rural Banks Act, 1977 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.

2. The notes on clauses explain in detail the various provisions contained in the Bill.

NEW DELHI; PRANAB MUKHERJEE.

The 27th April, 1983.

Notes on clauses

Clause 2.—The clause seeks to substitute clause (4) of section 2 of the Bankers' Books Evidence Act, 1891 so as to amplify the definition of the term "legal proceedings" by including therein any investigation or inquiry under the Code of Criminal Procedure, 1973, or under any other law for the time being in force for the collection of evidence conducted by a police officer or by any other person (not being a magistrate) authorised in this behalf by a magistrate or by any law for the time being in force. This clause also seeks to amend clause (8) of the said section so as to provide that a copy made from the original document by mechanical or other process ensuring the accuracy of such copy, together with a certificate to that effect, as also a copy prepared from the original document prior to the destruction of the original by a bank in the usual course of its business, together with a certificate to that effect shall be admissible in evidence. These amendments are based on the recommendations of the Banking Commission. This clause further seeks to incorporate a new section in the Bankers' Books Evidence Act, 1891, so as to provide that the order of a court or judge for production and inspection of books of the bank shall be construed as referring to an order made by an officer of a rank not lower than a Superintendent of Police as may be specified in this behalf by the Government by which the police officer or any other person conducting the investigation or inquiry is employed.

Clause 3.—This clause seeks to amend clause (4B) of section 17 of the Reserve Bank of India Act, 1934, so as to enhance the ceiling on advances that can be granted by the Reserve Bank of India to the Industrial Finance Corporation of India, from Rs. 3 crores to Rs. 15 crores. This amendment is consequential to the amendment already carried out to sub-section (3) of section 21 of the Industrial Finance Corporation Act, 1948 by the Industrial Finance Corporation (Amendment) Act, 1982.

Clause 4.—The amendment seeks to enable the Central Government to approve the form of securities that may be held by the Reserve Bank for the purposes of section 33 of the Reserve Bank of India Act, 1934, without having to formally notify the securities that may be so held.

Clause 5.—This clause seeks to amend *Explanation* to section 40 of the Reserve Bank of India Act, 1934, so as to replace the reference to Foreign Exchange Regulation Act, 1947, by a reference to Foreign Exchange Regulation Act, 1973.

Clause 6.—This clause seeks to amend section 42 of the Reserve Bank of India Act, 1934,—

(i) to ensure that loans from National Co-operative Development Corporation by the State Cooperative Banks are not treated as liabilities for the purpose of calculation of "cash reserves" ratio.

(ii) to ensure that loans from Sponsor Banks by Regional Rural Banks are not treated as libilities for purposes of calculation of "cash reserves" ratio,

(*iii*) to authorise the Reserve Bank to settle any disputes or doubts that may arise in classifying transactions as liabilities,

(*iv*) to provide that the concept of average daily balance will now be linked to balances held at the close of business on each day of a fortnight instead of a week and that the scheduled banks will now be required to file fortnightly returns on each alternate Friday in a month instead of on each Friday of the month as hitherto. Provision is also being made for filing of a special return where last Friday of a month is not an alternate Friday for the purpose of sub-section (2) of section 42.

Clause 7.—Consequential to the amendment of section 42 of the Reserve Bank of India Act, 1934, section 43 is sought to be amended to enable the Reserve Bank to publish a consolidated statement each fortnight, instead of each week as at present.

Clause 8.—This clause seeks to amend section 45H of the Reserve Bank of India Act, 1934 consequent to an amendment to section 51 of the Banking Regulation Act, 1949 [*vide* clause 40(a) (ii)].

Clause 9.—This clause seeks to amend clause (bb) of section 45I of the Reserve Bank of India Act, 1934, which contains the definition of the term "deposit". The definition of the term "deposit" is being widened so as to include any receipt of money by way of deposit or loan or in any other form, but specifically excluding certain types of deposits mentioned therein so as to enable individuals and unincorporated associations and firms to obtain funds or advances for their legitimate business.

Clause 10.—This clause seeks to insert new Chapter IIIC containing sections 45R, 45S and 45T in the Reserve Bank of India Act, 1934. Section 45S seeks to provide that no individual or firm or an unincorporated association of individuals shall, at any time have deposits from more than the number of depositors mentioned therein. Section 45T seeks to vest in the officers of the Resrve Bank or the State Governments, authorised in that behalf, the power to obtain search warrant from courts so as to enable them to enter into and search any premises suspected to be used for the purpose connected with the receipt of deposits in contravention of the Act. Such a warrant shall be executed in the same way and shall have the same effect as a search warrant issued under the Code of Criminal Procedure, 1973.

Clauses 11 *and* 12.—These clauses seek to amend respectively section 58B and section 58E of the Reserve Bank of India Act, 1934 with a view to providing for penalties for contravening the provisions of new section 45S of that Act (*vide* clause 10).

Clause 13.—This clause seeks to amplify the existing definition in section 5 of the Banking Regulation Act, 1949 of the term "approved securities". It also seeks to incorporate in that section the definitions of the terms "corresponding new bank", "Development Bank", "Exim Bank", "Reserve Bank", "Sponsor Bank" and "State Bank of India".

Clause 14.—This clause seeks to amend section 7 of the Banking Regulation Act, 1949, so as to clarify therein that no company other than a banking company shall use any of the words, *viz.*, "bank", "banker" or "banking" as part of its name, or in connection with its business.

Clause 15.—This clause seeks to amend section 8 of the Banking Regulation Act, 1949, in pursuance of the recommendation of the Banking Commission, to provide that the provisions of the said section do not hit the business which the Central Government may specify under section 6(1) (o) thereof as a form of business in which it is lawful for a banking company to engage.

Clause 16.—This clause seeks to insert a new sub-section (2A) in section 10A of the Banking Regulation Act, 1949 so as to provide that a director of a banking company, other than its chairman or wholetime director, by whatever name called, shall not hold office continuously for a period exceeding 8 years. It also seeks to provide that if a chairman or other wholetime director of a banking company is removed from office as such chairman or wholetime director, he shall also cease to be a director of the banking company and shall not be eligible to be appointed as director of such banking company for a period of four years from the date of his ceasing to be the chairman or wholetime director, as the case may be.

Clause 17.—This clause seeks to amend section 10B of the Banking Regulation Act, 1949, so as to provide that one of the directors of the banking company shall be the chairman of its Board of directors. This clause further seeks to provide that a chairman whose term of office has come to an end in certain circumstances shall, subject to the approval of the Reserve Bank, continue in office until his successor assumes office.

Clause 18.—This clause seeks to insert a new section 10BB in the Banking Regulation Act, 1949, so as to empower the Reserve Bank to appoint any person as the chairman of a banking company when the office of its chairman remains vacant for a long time and when, in the opinion of the Reserve Bank, the interests of the said banking company are likely to be adversely affected by the said office so remaining vacant.

Clause 19.—This clause seeks to substitute section 10C of the Banking Regulation Act, 1949, so as to provide that a chairman of a banking company, whether appointed by the banking company itself or by the Reserve Bank, and a director of a banking company appointed by the Reserve Bank under section 10A of that Act, shall not be required to hold any qualification shares in the banking company.

Clause 20.—Section 10D of the Banking Regulation Act, 1949 is being amended as a result of the introduction of new section 10BB in the same Act (*vide* clause 18).

Clause 21.—This clause seeks to substitute section 18 of the Banking Regulation Act, 1949, so as to provide, in accordance with the recommendation of the Banking Commission in this behalf, that the cash reserve, which every non-scheduled banking company is required to maintain in India, shall be maintained by it with itself or with the Reserve Bank only and not with the Reserve Bank or the State Bank of India or any other bank notified by the Central Government in this behalf as is provided at present. This cash reserve is to be maintained on the basis of the 3 per cent. of the total of the demand and time liabilities in India as on the last Friday of the second preceding fortnight instead of calculating the same with reference to each day's demand and time liabilities. Further, the monthly return shall, henceforth, show the amount so held on alternate Fridays during a month instead of showing the amount so held on Friday of each week. At the same time, it seeks to introduce the concept of

"net balance" for the purpose of arriving at the amount of "balance in current accounts" which is to be treated as liquid asset. In terms of this provision, each bank will be required to work out the difference between the balances held by it in current accounts with the public sector banks and the balances which the public sector banks may have in current accounts with it and include in its liquid assets only the excess, if any, of the former over the latter. The clause further seeks to modify the definition of the term "liabilities in India" occurring in the "*Explanation*" below existing section 18 of the aforesaid Act in respect of which minimum cash balances are to be maintained by every banking company, not being a scheduled bank. In the case of a banking company, not being a scheduled bank, only the net liability of that bank to the entire banking system, that is, after deduction of the balances maintained by it with all other banks from its gross liabilities to all those other banks, will be deemed to be its liabilty to these banks, for the purpose of secton 18. This *Explanation* also applies to all banks for the purpose of section 24 of the said Act. The *Explanation* is further modified to ensure that loan from a Sponsor Bank by a Regional Rural Bank is excluded for purposes of calculating statutory liquidity ratio under section 24 of the Banking Regulation Act, 1949. The clause also seeks to authorise the Reserve Bank to settle any dispute or doubts that may arise in classifying transactions as liabilities.

Clause 22.—This clause seeks to amend section 19 of the Banking Regulation Act, 1949, so as to amplify, in pursuance of the recommendation of the Banking Commission, the scope of the said section with a view to enlarging the purposes for which a banking company can form subsidiaries. A banking company would, now be permitted to form subsidiaries for carrying on one or more kinds of business which it is permitted to engage in under clauses (a) to (o) of section 6(1) of the said Act. At present, a banking company is not permitted to form subsidiaries except for undertaking and executing trusts, administration of estates as executors and for doing banking business outside India.

Clause 23.—This clause seeks to amend section 20(1)(b)(iii) of the Banking Regulation Act, 1949, so as to provide that a banking company is precluded from granting any loans or advances to a company when the banking company's director is a director, managing agent, manager, employee or guarantor of such company or its subsidiary or holding company or in which such director holds substantial interest.

Clause 24.—This clause seeks to insert a new section 21A in the Banking Regulation Act, 1949, so as to provide that rates of interest charged by banking companies to the debtors shall not be re-opened in a Court notwithstanding anything contained in the Usurious Loans Act, 1918, or any other State Law relating to indebtedness.

Clause 25.—This clause seeks to amend sub-section (3) of section 22 of the Banking Regulation Act, 1949, so as to widen the scope of the matters which the Reserve Bank may consider before granting a licence to a company to carry on banking business in India and also insert a new sub-section (3A) which is based on the existing clause (c) of sub-section (3). A consequential amendment is also being made to clause (iii) of sub-section (4) of that section.

Clause 26.—This clause seeks to amend section 24 of the Banking Regulation Act, 1949, so as to empower the Reserve Bank to increase the statutory liquidity ratio which the scheduled and non-scheduled banks are

required to maintain in India, from the present statutory minimum limit of 25 per cent. to a maximum of 40 per cent of their total demand and time liabilities in India with reference to the last Friday of the second preceding fortnight. The clause further seeks to modify the mode of valuation of approved securities for the purpose of statutory liquidity ratio in pursuance of the recommendations of the Working Group on Public Debt Management set up by the Reserve Bank. Hence, section 24 is being amended with a view to giving Reserve Bank an enabling power to specify the mode of the valuation of approved securities in accordance with policy requirements. An *Explanation* is also added to provide that the market price shall be the price as on the date of issue of the notification or as on any earlier or later date as may be notified from time to time by the Reserve Bank in respect of any class or classes of securities. The Reserve Bank of India is also sought to be empowered to charge penal interest if there is a default in the maintenance of the minimum statutory liquidity ratio. The clause also includes amendments consequential to the amendments proposed to section 18 of the Act (*vide* clause 21).

Clause 27.—This clause seeks to amend section 29 of the Banking Regulation Act, 1949, so as to clarify that the period specified in sub-section (3) of section 210 of the Companies Act, 1956, relating to preparation of the balance-sheet and profit and loss account shall, in the case of a banking company, be the period ending with the last working day of the year immediately preceding the year in which its annual general meeting is held.

Clauses 28 *and* 32.—In view of the insertion and revision of certain definitions in section 5 of the Banking Regulation Act, 1949 (*vide* clause 13), consequential amendments are being made to section 34A and 36AD of the said Act.

Clause 29.—This clause seeks to amend section 35 of the Banking Regulation Act, 1949, for the following purposes:—

(i) to clarify that the Reserve Bank has always been empowered to conduct scrutiny of the affairs of banking companies in addition to conducting regular inspection under that section;

(ii) to empower an officer conducting scrutiny to have the same powers as that of an inspecting officer under that section; and

(iii) to provide that the Reserve Bank shall furnish a copy of the scrutiny report to the banking company if it makes a request or if any adverse action is contemplated against the banking company.

Clause 30.—This clause seeks to amend section 35B of the Banking Regulation Act, 1949, so as to make the Reserve Banks approval necessary for any change in the maximum permissible number of directors of a banking company. It also seeks to remove the existing dual control in regard to the managerial remuneration in the case of a banking company, one by the Reserve Bank under section 35B of the Banking Regulation Act, 1949 and the other by the Government of India in the circumstances mentioned in sub-section (4) of section 198 of the Companies Act, 1956.

Clause 31.—This clause seeks to amend section 36AB of the Banking Regulation Act, 1949, so as to remove the limit on the number of additional directors which the Reserve Bank can appoint on the board of a banking company under that section.

Clause 33.—Under section 464 of the Companies Act, 1956, as amended in 1960, the earlier powers given to the Liquidator have been withdrawn and the High Court has been empowered to exercise a discretion for appointing a committee of inspection. This clause seeks to make consequential amendments to section 42 of the Banking Regulation Act, 1949

Clause 34.—In addition to making some textual changes in section 45 of the Banking Regulation Act, 1949, this clause seeks to amend—

(i) sub-section (8) of the aforesaid section so as to make it clear that the scheme of amalgamation of one banking company with any banking institution shall also be binding on the trustees or other persons managing, or in any other manner connected with, any provident fund or other fund maintained by any such company or the transferee bank;

(ii) sub-section (15) of the said section with a view to confining the scope of the definition of the term "banking institution" to any banking company including the State Bank of India, a subsidiary bank or a corresponding new bank; and

(iii) the said section by adding an *Explanation* thereto so as to avoid a claim by an employee of the transferor bank that he should be given in the transferee bank the same "rank or status" as he had in the transferor bank at the time of amalgamation.

Clause 35.—This clause seeks to amend section 45A and section 45J of the Banking Regulation Act, 1949, respectively, so as to replace references to the Code of Criminal Procedure, 1898, by references to the Code of Criminal Procedure, 1973 and to make amendments to omit reference to jury trial.

Clause 36.—This clause seeks to amend section 45S of the Banking Regulation Act, 1949, so as to replace the reference to Chief Presidency Magistrate or the District Magistrate by reference to Chief Metropolitan Magistrate or the Chief Judicial Magistrate respectively. These amendments are necessitated by the coming into force of the Code of Criminal Procedure, 1973.

Clause 37.—This clause seeks to insert a new Part consisting of sections 45Y, 45Z, 45ZA, 45ZB, 45ZC, 45ZD, 45ZE, and 45ZF in the Banking Regulation Act, 1949, based on the recommendation of the Banking Commission, so as—

(i) to empower the Central Government to frame rules specifying the periods of preservation of various types of records such as books, accounts and documents required to be maintained by a banking company as also of the different instruments paid by it (section 45Y);

(ii) to enable a banking company to return at the request of a customer (including Government Departments and statutory corporations) a paid instrument, before the prescribed preservation period, only after making and keeping in its possession a true copy thereof made by mechanical processes (section 45Z);

(iii) to empower a banking company to make payment to the nominee of a depositor or the person appointed under sub-secion (3) of the new section 4ZA of the amount to his credit, in the event of the death of the depositor (section 45ZA);

(iv) to protect a banking company against any claim of the third party to the deposit (section 45ZB);

(v) to enable a banking company to return the articles kept by a person in its safe custody to the nominee or the person appointed under sub-section (2) of new section 45ZC in the event of the death of the person leaving the articles in safe custody, after making inventory of the articles in the manner directed by the Reserve Bank, the inventory being signed by the person receiving the articles (section 45ZC);

(vi) to protect a banking company against any claim, to any articles, made by any person other than the person who placed the article in safe custody with the banking company (section 45ZD);

(vii) to enable a banking company to release the contents of a safety locker to the nominee or survivor of the hirer of such locker in the event of the death of the hirer, by making an inventory of the contents of a safety locker in the manner directed by the Reserve Bank, the inventory being signed by the nominee or the survivor as also to protect the banking company against any liability for so releasing the contents of the locker (section 45ZE);

(viii) to protect a banking company against any claim to the contents of a safety locker, made by any person other than the hirer of such locker who placed the articles in the safe custody with the banking company (section 45ZF).

Clause 38.—The clause, besides making changes in sub-section (2) of section 46 of the Banking Regulation Act, 1949 as consequent to amendment proposed *vide* clause 29, seeks to substitute sub-section (4) of the said section so as to make a failure to comply with any requirement of that Act or of any order, rule or direction made thereunder or a failure to carry out the terms of an amalgamation sanctioned under section 45, as offences punishable with fine under section 47.

Clause 39.—This clause seeks to amend section 47 of the Banking Regulation Act, 1949, to substitute old functionaries under the Code of Criminal Procedure, 1898 by new functionaries under the Code of Criminal Procedure, 1973.

Clause 40.—This clause seeks to amend section 51 of the Banking Regulation Act so as—

(i) to make the prohibition contained in section 20 thereof against making advances to companies having a common director, inapplicable to the advances by the public sector banks to companies in which the Central Government or the Reserve Bank or a Corporation owned by the bank holds 40 per cent. or more of the paid-up capital.

(ii) to extend the statutory protection given by clause (c) of the proviso to section 51 thereof to an officer of the Central Government or the Reserve Bank or the State Bank who may be nominated on the Board of a corresponding new bank or a Regional Rural Bank or any subsidiary bank or of a banking company and also to an officer of a corresponding new bank or a Regional Rural Bank or a subsidiary bank who may be nominated as director on the Board of any of the said banks; and

(iii) to provide that a rule or direction made under the Act shall also apply to the State Bank of India, any corresponding new bank, a Regional Rural Bank and a subsidiary bank. Other amendments proposed to be made by this clause are of a consequential nature.

Clause 41.—This clause seeks to amend section 52 of the Banking Regulation Act, 1949, so as to provide for laying of rules made by the Central Government under the aforesaid Act before each House of Parliament. The amendment also seeks to dispense with the condition of previous publication of the rules to be framed under this section.

Clause 42.—Section 56 of the Banking Regulation Act, 1949, specifies the modifications to certain sections of the Act in their application to co-operative banks. This clause deals with the modifications of the relevant sections as a result of the proposed amendments to the Banking Regulation Act. The important modifications are:

(i) the proviso proposed to be substituted for the existing proviso to section 8 (relating to prohibition of trading) provides that the period of completing any business referred to in that section will be extended only up to the expiry of one year from the commencement of the amending legislation.

(ii) the provisos proposed to be substituted for the second proviso to section 9 empower the Reserve Bank to extend the period of seven years for disposal of non-banking assets of a co-operative bank, if the Reserve Bank is satisfied that such extension would be in the interests of the depositors of the co-operative bank.

(iii) clause (j) of section 56 of the Banking Regulation Act, 1949, which amends section 18 of the said Act, in its application to co-operative societies, is being substituted by a new clause, the amendments being on the lines similar to the amendments to section 18 of the Banking Regulation Act, as applicable to commercial banks (*vide* clause 21). This is to provide that the cash reserve of 3 per cent. is to be maintained with reference to demand and time liabilities as on the last Friday of the second preceding fortnight instead of calculating the same with reference to each day's demand and time liabilities. Further, the monthly return submitted by co-operative banks shall show the position as on alternate Fridays instead of every Friday.

(iv) section 24, as applicable to co-operative banks, is being amended to empower the Reserve Bank to increase the percentage of the statutory liquidity ratio from 25 per cent. to 40 per cent. maximum, of the total of the demand and time liabilities in India as on the last Friday of the second preceding fortnight and also to change the period for filing the returns showing the position on alternate Fridays instead of every Friday. The sub-clause further seeks to amend to section as applicable to co-operative banks on the lines similar to the amendments to section 24 of the Banking Regulation Act, 1949 as applicable to commercial banks (*vide* clause 26) in the matter of valuation of approved securities for the purpose of statutory liquidity ratio.

(v) a new section—section 24A—is proposed to be inserted empowering the Reserve Bank to exempt, by notification, any co-operative bank or class of co-operative banks from the applicability

of the whole or any part of the provisions of section 18 or section 24 of the Act with reference to all or any of the offices of such co-operative bank or co-operative banks or with reference to the whole or any part of the assets and liabilities of such co-operative bank or co-operative banks and for such period and subject to such conditions as may be specified in the notification.

(vi) clause (d) of sub-section (1) of section 36 is proposed to be substituted by a new clause which would enable the Reserve Bank to depute one or more of its officers to watch the proceedings at any meeting of the Board of directors of a co-operative bank or to appoint its officers to observe the manner in which the affairs of the co-operative bank or its offices or branches are conducted and make a report thereon.

Clause 43.—This clause seeks to insert a new section 35A in the State Bank of India Act, 1955, with a view to providing certain protection to directors appointed by the State Bank on the boards of companies assisted by it against prosecution as a result of non-compliance with the provisions contained in the Companies Act, 1956, or in any other law or in the Memorandum or Articles of Association. It further seeks to provide that such a director shall hold office during the pleasure of the State Bank and may be removed by it. Further, such a director will not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duty as a director. It also provides that such director shall not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement.

Clause 44.—This clause seeks to amend section 40 of the State Bank of India Act, 1955, so as to provide for a report by the Central Board on the working and activities of the State Bank. It also seeks to provide for laying before each House of Parliament the auditor's report and the report on the working and activities of the State Bank of India, as is done in the case of the nationalised banks.

Clause 45.—The amendment to section 42 of the State Bank of India Act, 1955, is consequential to the amendment proposed to section 40 of the Act by clause 44.

Clause 46.—This clause seeks to amend section 43 of the State Bank of India Act, 1955, so as to empower the Central Board of the Bank to delegate by general or special order the powers to the officers of the Bank.

Clauses 47 *and* 48.—These clauses seek to amend section 49 and section 50 respectively of the State Bank of India Act, 1955, so as to provide for laying of rules and regulations made under the aforesaid Act before each House of Parliament.

Clause 49.—The National Bank for Agriculture and Rural Development Act, 1981 has amended section 45 of the Reserve Bank of India Act, 1934 and accordingly, the Reserve Bank has been empowered to appoint subsidiary banks also to act as its agents. In the absence of an explicit provision in the State Bank of India (Subsidiary Banks) Act, 1959 enabling the said banks to undertake such agency business, it is necessary to incorporate a new section 36A in the said Act for the purpose.

Clause 50.—This clause seeks to insert a new section 38A in the State Bank of India (Subsidiary Banks) Act, 1959 (on the lines of new section 35A proposed to be inserted in the State Bank of India Act, 1955, by

clause 43) with a view to providing certain protection to directors appointed by a subsidiary bank on the boards of companies assisted by it against prosecution as a result of non-compliance with the provisions contained in the Companies Act, 1956 or in any other law for the time being in force or in the Memorandum or Articles of Association. It further seeks to provide that such a director shall hold office during the pleasure of the subsidiary bank and may be removed by it. Further, such a director will not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duty as a director. It also provides on the lines of new section 35A that such director shall not be liable to retirement by rotation.

Clause 51.—This clause seeks to make some verbal amendments to section 43 of the State Bank of India (Subsidiary Banks) Act, 1959 and also to provide for the auditors' report and the report by the Board of directors on the working and activities of a subsidiary bank being laid before each House of Parliament.

Clause 52.—The amendments to section 44 of the State Bank of India (Subsidiary Banks) Act, 1959 are consequential to the amendment by clause 51.

Clause 53.—This clause seeks to amend section 53 of the State Bank of India (Subsidiary Banks) Act, 1959, with a view to providing that the officer nominated by the State Bank as a director of its subsidiary bank shall not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duty as a director.

Clauses 54 *and* 55.—These clauses seek to amend section 62 and section 63 respectively of the State Bank of India (Subsidiary Banks) Act, 1959, so as to provide for laying of rules and regulations made under the aforesaid Act before each House of Parliament.

Clause 56.—This clause seeks to amend the definition of the term "insured bank" in clause (i) of section 2 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 so as to include therein a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, as also a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980. Since clause (i) of section 2, as substituted by the Deposit Insurance Corporation (Amendment) Act, 1968 which came into force from the 1st July, 1971 did not include a reference to corresponding new banks constituted under the First Nationalisation Act, 1970, the amendment is sought to be made with retrospective effect from the 1st July, 1971 in respect of such banks. In section 2(i), sub-clause (i) is also being substituted as an amendment consequential to the amendment of section 13 by the Nationalisation Act, 1970, being retrospective with effect from the 19th July, 1969, which is the date on which the Nationalisation Act, 1970, came into force. This clause also makes amendments consequent on certain amendments by clause 40.

Clause 57.—This clause seeks to provide that the capital of the Deposit Insurance and Credit Guarantee Corporation may be raised to Rs. 50 crores instead of Rs. 15 crores as at present.

Clause 58.—This clause seeks to amend sub-section (2) of section 6 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961

with a view to providing that the additional directors appointed under section 6(1) (e) of the Act shall hold office for a term not exceeding four years as may be specified by the Central Government. It also seeks to provide that such director whose term of office comes to an end shall continue in office until his successor assumes office. Further, it seeks to amend sub-section (3) of section 6 of the Act so as to provide that a director nominated by Central Government under clause (e) of sub-section (1) of section 7 shall not be capable of being nominated as a director in the circumstances indicated in sub-section (3). It further seeks to insert a new sub-section (5) so as to provide that the seat of a director nominated under clause (e) of sub-section (1) of section 6 shall become vacant in specified circumstances.

Clause 59.—This amendment is consequential to certain amendments by clause 40.

Clause 60.—This clause seeks to amend sub-sections (2) and (3) of section 13 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 so as to omit the reference to clause (b) on the ground that the provisions of section 22 of the Banking Regulation Act, 1949, are not applicable to the corresponding new bank *vide* section 51 of that Act.

Clause 61.—Consequent upon the proposed amendment to section 56(o) of the Banking Regulation Act, 1949 [section 22(2) of the said Act as applicable to co-operative banks *vide* clause 42(ii)] this clause seeks to introduce a new sub-clause (iii) in clause (b) of sub-section (2) of section 13A in the Deposit Insurance and Credit Guarantee Corporation Act, 1961 with a view to extending insurance coverage to deposits with such banks as mentioned in the said section 22(2).

Clause 62.—This clause seeks to amend section 16 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 retrospectively in view of amendment of section 13 by the Nationalisation Act, 1970.

Clause 63.—This clause seeks to make textual changes in sub-section (2) of section 32 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, with regard to laying certain reports before each

Clause 64.—This clause seeks to amend section 50 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, so as to provide for laying of regulations made under the aforesaid Act before each House of Parliament.

Clause 65.—This clause seeks to make certain textual changes in section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970. Further, the National Bank for Agriculture and Rural Development Act, 1981 has amended section 45 of the Reserve Bank of India Act, 1934 and accordingly, the Reserve Bank has been empowered to appoint a corresponding new bank to act as its agent. In the absence of explicit provisions in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 enabling a corresponding new bank to undertake such agency business, it is necessary to incorporate a new sub-section.

Clause 66.—This clause seeks to insert a new sub-section in section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 so as to specifically provide that a scheme made under section 9 of that Act shall be binding on the creditors, depositors, employees and other persons affected by it. This clause further seeks to incorporate a

definition of the term "banking institution" in the said section on the lines of definition in sub-section (15) of section 45 of the Banking Regulation Act, 1949, as proposed to be amended by clause 34. It also seeks to amend sub-section (6) relating to laying of scheme before Parliament.

Clause 67.—This clause seeks to introduce two "*Explanations*" in section 10 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 on the lines of the corresponding provisions in the Companies Act, 1956 dealing with the scope of the auditors' reports in the matter of certifying that the balance-sheet exhibits a true and fair view of the affairs of the nationalised bank concerned. This clause further seeks to insert new sub-section (7A) in section 10 so as to rationalise the existing arrangements regarding the furnishing of its annual balance-sheet and accounts together with the auditors' report and the annual report on its working and activities by each nationalised bank to the Central Government. It also seeks to make certain textual changes in sub-section (8) of the said section relating to laying of reports before Parliament. It also seeks to insert new sub-section (9) in section 10 of the Act so as to empower the Central Government to appoint, at any time, such number of auditors as it thinks fit to examine and report on the accounts of a nationalised bank.

Clause 68.—This clause seeks to insert a new section 16A in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (on the lines of new section 35A proposed to be inserted in the State Bank of India Act , 1955, by clause 43) with a view to providing certain protection to directors appointed by a nationalised bank on the boards of companies assisted by it against prosecution as a result of non-compliance with the provisions contained in the Companies Act, 1956 or in any other law or in the Memorandum or Articles of Association. It further seeks to provide that such a director shall hold office during the pleasure of the nationalised bank and may be removed by it. Further, such a director will not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duty as a director. It also provides on the lines of new section 35A that such director shall not be liable to retirement by rotation.

Clause 69.—This clause seeks to amend section 19 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 so as to provide for the laying of regulations made by the Board of directors of a corresponding new bank under the aforesaid Act before each House of Parliament.

Clause 70.—This clause seeks to amend section 30 of the Regional Rural Banks Act, 1976, so as to provide that regulations made under that Act shall be laid before each House of Parliament.

Clause 71.—This clause seeks to make certain textual changes in section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980. Further, the National Bank for Agriculture and Rural Development Act, 1981 has amended section 45 of the Reserve Bank of India Act, 1934 and accordingly, the Reserve Bank has been empowered to appoint a corresponding new bank to act as its agent. In the absence of explicit provisions in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 enabling a corresponding new bank to undertake such agency business, it is necessary to incorporate a new sub-section.

Clause 72.—This clause seeks to insert a new sub-section in section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 so as to specifically provide that a scheme made under section 9 of that Act shall be binding on the creditors, depositors, employees and other persons affected by it. This clause further seeks to incorporate a definition of the term "banking institution" in the said section on the lines of definition in sub-section (15) of section 45 of the Banking Regulation Act, 1949, as proposed to be amended by clause 34.

Clause 73.—This clause seeks to introduce two "*Explanations*" in section 10 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 on the lines of the corresponding provisions in the Companies Act, 1956 dealing with the scope of the auditors' report in the matter of certifying that the balance-sheet exhibits a true and fair view of the affairs of the nationalised bank concerned. This clause further seeks to insert new sub-section (7A) in section 10 so as to rationalise the existing arrangements regarding the furnishing of its annual balance-sheet and accounts together with the auditors' report and the annual report on its working and activities by each nationalised bank to the Central Government. It also seeks to make certain textual changes in sub-section (8) of the said section relating to laying of reports before Parliament. It also seeks to insert new sub-section (9) in section 10 of the Act so as to empower the Central Government to appoint, at any time, such number of auditors as it thinks fit to examine and report on the accounts of a nationalised bank.

Clause 74.—This clause seeks to insert a new section 16A in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (on the lines of new section 35A proposed to be inserted in the State Bank of India Act, 1955—*vide* clause 43) with a view to providing protection to directors appointed by a nationalised bank on the boards of companies assisted by it against prosecution as a result of non-compliance with the provisions contained in the Companies Act, 1956 or in any other law or in the Memorandum or Articles of Association. It further seeks to provide that such a director shall hold office during the pleasure of the nationalised bank and may be removed by it. Further, such a director will not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duty as a director. It also provides on the lines of new section 35A that such director shall not be liable to retirement by rotation.

Clause 75.—This clause seeks to amend section 19 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 so as to provide for the laying of regulations made by the Board of directors of a corresponding new bank under the aforesaid Act before each House of Parliament.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6, sub-clause (b), of the Bill seeks to amend sub-section (1A) of section 42 of the Reserve Bank of India Act, 1934 so as to empower the Reserve Bank to specify, by notification in the Gazette of India, different dates in respect of banks subsequently included in the Second Schedule to that Act. Sub-clause (c) of that clause seeks to insert sub-section (1C) in section 42 of the said Act enabling the Reserve Bank to specify from time to time any transaction or class of transactions which shall be regarded as liability in India of a scheduled bank.

Clause 13 of the Bill seeks to amend the definition of "approved securities" in section 5 of the Banking Regulation Act, 1949, as meaning, *inter alia*, such of the securities authorised by the Central Government under clause (f) of section 20 of the Indian Trusts Act, 1882 as may be prescribed by rules made by the Central Government under the Banking Regulation Act, 1949.

Clause 21 of the Bill and clause 42 as applicable to co-operative societies seek to substitute section 18 of the Banking Regulation Act, 1949, Clause (d) of the *Explanation* to sub-section (*1*) of the said section 18 empowers the Central Government to notify financial institutions for the purposes of that clause. Sub-section (2) of the said section 18 empowers the Reserve Bank to specify any transaction or class of transactions to be regarded as liability in India of a banking company or a co-operative bank, as the case may be, for the purposes of section 18 and section 24 of the Banking Regulation Act, 1949.

Clause 26 of the Bill and clause 42 as applicable to co-operative societies, seek to amend section 24(2A)(a) of the Banking Regulation Act, 1949 so as to empower the Reserve Bank to increase the liquidity ratio from the present statutory minimum limit of 25 per cent. up to a limit not exceeding 40 per cent, as may be specified by the Reserve Bank in the notification. The relevant clauses also provide for banking companies and co-operative banks furnishing a special return in the prescribed form and manner. Further, the Reserve Bank is empowered to specify the mode of valuation of securities to be adopted by banks for the purpose of section 24 of the Banking Regulation Act, 1949.

Clause 37 of the Bill seeks to insert a new section 45Y in the Banking Regulation Act, 1949, which empowers the Central Government, after consultation with the Reserve Bank to make rules specifying the periods for which banks shall preserve and keep their books, accounts and other documents as well as different instruments paid by them. Different periods may have to be fixed for different types of records, depending upon the nature of each record, and keeping in view the needs and practical difficulties of the banks, and usefulness in connection with tax and other regulatory proceedings. This clause further seeks to insert new sections 45ZA, 45ZC and 45ZE in the Banking Regulation Act, 1949, in pursuance whereof, the depositors of banks, persons leaving articles in safe custody with banks, and hirers of safety

lockers from banks, are given the right of nomination in the manner prescribed by rules made by the Central Government under the said Act. The nomination so made can also be varied or cancelled in the prescribed manner. The said sections 45ZC and 45ZE also require the banks to prepare, in such manner as may be directed by the Reserve Bank, an inventory of articles returned to claimants.

Clause 42 of the Bill seeks to insert a new section 24A as applicable to co-operative societies for empowering the Reserve Bank to exempt, by notification, any co-operative bank or class of co-operative banks from the applicability of the whole or any part of the provisions of section 18 or section 24 of the Act, with reference to all or any of the offices of such co-operative bank or co-operative banks, or with reference to the whole or any part of the assets and liabilities of such co-operative bank or co-operative banks, and for such period and subject to such conditions as may be specified in the notification.

Clause 46 of the Bill seeks to amend section 43 of the State Bank of India Act, 1955 so as to provide for delegation of powers to the officers of the Bank also by general or special orders made by the Central Board of the Bank.

The matters in respect of which an authority is empowered to issue any authorisation, notification or order or to make rules, relate to matters of procedure and administrative details. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 71 OF 1983

A Bill to provide for the regulation of trade and commerce in, and production, supply, distribution and use of, the product of any industry producing dangerous machines with a view to securing the welfare of labour operating any such machine and for payment of compensation for the death or bodily injury suffered by any labourer while operating any such machine, and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Dangerous Machines (Regulation) Act, 1983.

(2) It extends to the whole of India.

(*3*) This section and clause (*c*), of section *3* shall come into force at once in all the States and the remaining provisions of this Act shall come into force in a State on such date as the State Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act; and any reference in any provision of this Act to the commencement of this Act shall in relation to any State be construed as a reference to the commencement of that provision in that State.

Declaration as to expediency of control by Union.

2. It is hereby declared that it is expedient in the public interest that the Union should take under its control the industries engaged in the manufacture or production of power threshers or any other machines which are intended to be used in the agricultural or rural sector and which are of such nature that any accident in the course of operation thereof may cause its operator death, dismemberment of any limb or other bodily injury.

Definitions.

3. In this Act, unless the context otherwise requires,—

(*a*) "child" means a person who has not completed his fourteenth year of age;

(*b*) "Controller" means the person appointed by the State Government to give effect to the provisions of this Act, and includes every Additional, Deputy or Assistant Controller who may be authorised by the Controller under sub-section (3) of section 5 to exercise any power under this Act;

(*c*) "dangerous machine" means a power-thresher, and includes any such machine intended to be used in the agricultural or rural sector as the Central Government, being of opinion that it is of such a nature that any accident in the course of operation thereof is likely to cause to its operator death, dismemberment of any limb or other bodily injury, may, by notification in the Official Gazette, specify as dangerous machine;

(*d*) "day" means a period of twenty-four hours beginning at midnight;

(*e*) "dealer", in relation to any dangerous machine or any part thereof, means a person who, or a firm or a Hindu undivided family which, carries on, directly or otherwise, the business of buying, selling, supplying or distributing any dangerous machine or any part thereof, whether for cash or for deferred payment or for commission, remuneration or other valuable consideration, and includes—

(*i*) a commission agent who carries on such business on behalf of any principal;

(*ii*) an importer who sells, supplies, distributes or otherwise delivers any dangerous machine to any user, manufacturer, repairer, consumer or any other person,

but does not include a manufacturer who sells, supplies, distributes or otherwise delivers any dangerous machine or any part thereof to any person or category of persons referred to in this clause;

Explanation.—For the removal of doubts, it is hereby declared that a manufacturer who sells, supplies, distributies, or otherwise delivers any dangerous machine or any part thereof to any person other than a dealer, shall be deemed to be a dealer, and shall, in addition to his liability to comply with the provisions of this Act relating to manufacturers, also be liable to comply with the provisions of this Act relating to dealers;

(*f*) "employer", in relation to the operator of any dangerous machine, means the person by whom such operator has been

employed, whether for any remuneration or otherwise, for operating such machine;

(*g*) "family", in relation to an operator, means his wife and dependent children and includes his dependent parents;

(*h*) "Inspector" means an Inspector appointed under this Act;

(*i*) "machine" includes prime movers, transmission machinery and all other appliances whereby power is generated, transferred, transmitted or applied to a dangerous machine;

(*j*) "manufacturer", in relation to any dangerous machine or any part thereof, means a person who, or a firm or a Hindu undivided family which,—

(*i*) makes or manufactures such dangerous machine or part thereof,

(*ii*) makes or manufactures one or more parts, and acquires the other parts of such dangerous machine and, after assembling those parts, claims the end product to be a product manufactured by himself, or itself, as the case may be,

(*iii*) does not make or manufacture any part of such dangerous machine but assembles parts thereof made or manufactured by others and claims the end product to be a product manufactured by himself, or itself, as the case may be,

(*iv*) puts, or causes to be put, his or its own mark on any complete dangerous machine made or manufactured by any other person and claims such product to be a product made or manufactured by himself, or itself, as the case may be;

(*k*) "operator" means a person employed directly or by or through any agency (including a contractor), whether as a regular worker or as a casual worker, with or without the knowledge of the principal employer, whether for remuneration or not, in the operation or cleaning of any dangerous machine or any part thereof or in any other kind of work incidental to, or connected with, the operation or cleaning of any dangerous machine or any part thereof;

(*l*) "power" means electrical or mechanical energy, or any other form of energy which is mechanically transmitted into a dangerous machine;

(*m*) "power thresher" means a machine, operated with the aid of power, for threshing one or more kinds of agricultural produce;

(*n*) "prescribed" means prescribed by rules made under this Act;

(*o*) "prime mover" means an engine, motor or other appliance which generates or otherwise provides power to a dangerous machine;

(*p*) "transmission machinery" means any shaft, wheel, drum, pulley, system of pulleys, coupling, clutch, driving belt or other appliance or device by which the motion of a prime mover is transmitted to, or received by, any dangerous machine.

Act to override all other enactments.

4. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any contract or instrument having effect by virtue of any law other than this Act or any decree or order of any court, tribunal or authority.

CHAPTER II

ADMINISTRATION OF THE ACT

Appointment and functions of Controllers.

5. (1) The State Government shall, by notification in the Official Gazette, appoint a Controller for carrying out the provisions of this Act, and may also by the same or subsequent notification apopint such number of Additional, Deputy or Assistant Controllers as it may deem fit.

(2) The Controller shall discharge his functions under this Act subject to the general control and directions of the State Government.

(3) The Controller may authorise such persons as he thinks fit also to exercise all or any of the powers exercisable by him under this Act other than the powers under sub-section (5) and different persons may be authorised to exercise different powers.

(4) Subject to any general or special direction given or imposed by the Controller, any person authorised by the Controller to exercise any powers may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Act and not by way of authorisation.

(5) The Controller may also—

(a) perform all or any of the functions of, and

(b) exercise all or any of the powers conferred by this Act or any rule or order made thereunder on,

any officer lower in rank than himself.

Power of Controller to issue orders.

6. The Controller may, if he thinks fit, make orders, not inconsistent with the provisions of this Act, for carrying out the provisions of this Act.

Appointment of Inspectors.

7. (1) The State Government may, by notification in the Official Gazette, appoint as many Inspectors as it deems fit to carry out the provisions of this Act relating to inspection, search, seizure of dangerous machines and examination of the records of manufacturers, dealers and users relating to such machines.

(2) Every Inspector shall discharge his functions subject to the general direction and control of the Controller.

Controller, etc., to be public servants.

8. The Controller, and any person authorised by the State Government or the Controller to perform any functions under this Act, and every Inspector, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

CHAPTER III

ISSUE, RENEWAL AND CANCELLATION OF LICENCES TO MANUFACTURERS AND DEALERS

Licensing of manufacturers and dealers.

9. (*1*) Save as otherwise provided in this section, no person shall manufacture, or commence or carry on business as a manufacturer or dealer of, any dangerous machine unless he holds a valid licence issued in this behalf by the Controller:

Provided that a person engaged in the manufacture of, or carrying on business as a manufacturer or dealer of, any dangerous machines of any class immediately before the appointed day in relation to dangerous machines of such class may continue to manufacture such machines or carry on such business without such a licence for a period of one month from that date, and if he makes an application for such licence under this section within the said period of one month, till the communication to him of the order of the Controller disposing of such application.

Explanation.—For the purposes of this proviso, "appointed day" means,—

(*i*) in relation to the class of dangerous machines being power threshers, the date of commencement of this Act;

(*ii*) in relation to any other class of dangerous machines, the date with effect from which such machines have been specified to be dangerous machines by the Central Government by notification under clause (*c*) of section 3, or in the case of a State in which this section has come into force with effect from a later date, such later date.

(*2*) A licence issued under this section—

(*a*) shall be valid for a period of five years;

(*b*) may be renewed from time to time, for a like period; and

(*c*) shall be in such form, and shall be subject to such conditions, as may be prescribed by the Central Government.

(*3*) A person who intends to commence the manufacture, or carry on business as manufacturer or dealer, of any dangerous machine shall make an application in such form and on payment of such fees, not exceeding five hundred rupees, as may be prescribed, for the issue of a licence.

(*4*) No application for the issue of a licence to commence the manufacture, or to carry on business as a manufacturer or dealer, of any dangerous machine shall be granted unless the Controller, after making such inquiry as he thinks fit, is satisfied—

(*a*) in the case of a manufacturer carrying on business at the commencement of this Act, of manufacturing any dangerous machine, that such machine complies with the standards prescribed under section 13; and

(*b*) in the case of a person who intends to commence business, after such commencement, as a manufacturer of a dangerous machine, that the applicant has declared that he would manufacture such machine in accordance with the standards laid down by or under this Act.

(5) An application for the renewal of a licence issued under this section shall be made not less than forty-five days before the date of expiry of the period of validity thereof and shall be accompanied by such fees, not exceeding two hundred rupees, as may be prescribed.

(6) No application for the renewal of a licence for the manufacture, or for the carrying on the business as a manufacturer, of a dangerous machine shall be rejected unless—

(a) the holder of such licence has been given a reasonable opportunity of presenting his case; and

(b) the Controller is satisfied that—

(i) the application for such renewal has been made after the expiry of the period specified therefor:

Provided that an application for the renewal of a licence made after the expiry of the specified period may be entertained on payment of such late fees, not exceeding one hundred rupees, as may be prescribed;

(ii) any statement made by the applicant at the time of the issue or renewal of the licence was incorrect or false in material particulars;

(iii) the applicant has omitted or failed to manufacture any dangerous machine in accordance with the prescribed standards; or

(iv) the applicant has contravened any term or condition of the licence or any provision of this Act, or any rule or order made thereunder or of any law for the time being in force in so far as such law prohibits the bringing into or taking out of India, any dangerous machine.

(7) Every person to whom a licence has been issued or renewed under this section shall comply with the terms and conditions specified in the licence and the provisions of this Act and the rules and orders made thereunder.

(8) Every person to whom a licence has been granted or renewed under this section shall ensure that every person employed by him complies, in the course of such employment, with the provisions of this Act or any rule or order made thereunder.

(9) Every order granting or rejecting any application for the issue or renewal of a licence under this section shall be made in writing.

(10) Every licensed dealer and every licensed manufacturer shall display his licence at a conspicuous place of the premises in which he carries on business as such licensed dealer or manufacturer.

Suspension and cancellation of licences.

10. (1) The Controller may, if he has any reasonable cause to believe that the holder of a licence granted under section 9 has made a statement in, or in relation to, any application for the issue or renewal of a licence, which is incorrect or false in material particulars, or has contravened any provision of this Act or any rule or order made thereunder or of any other law for the time being in force which regulates the bringing into or taking out of India any dangerous machine, suspend such licence pending the

completion of any inquiry or trial against the holder of such licence, for making such incorrect or false statement or for such contravention, as the case may be:

Provided that no such licence shall be suspended for a period exceeding ten days unless the holder thereof has been given a reasonable opportunity of showing cause against the proposed action.

(2) The Controller may, if he is satisfied, after making such inquiry as he may think fit, that the holder of any licence issued or renewed under this Act has made such incorrect or false statement as is referred to in sub-section (1), or has omitted or failed to manufacture any dangerous machine in accordance with the prescribed standards or has contravened the provisions of such law, rule or order, as is referred to in that sub-section, cancel such licence:

Provided that no licence shall be cancelled unless the holder thereof has been given a reasonable opportunity of showing cause against the proposed action.,

(3) Every person whose licence has been suspended or cancelled shall, immediately after such suspension or cancellation, stop functioning as such licensee and shall not resume business as such licensee until the order of such suspension or cancellation has been vacated.

(4) Every person who holds a licence which is suspended or cancelled shall, immediately after such suspension or cancellation, surrender such licence to the Controller.

Cancellation of licence on application by manufacturer or dealer.

11. A person licensed to manufacture or carry on business as a manufacturer or dealer of any dangerous machines who discontinues such manufacture or business or who intends to discontinue such manufacture or business, may make an application to the Controller for the cancellation of his licence, and thereupon, the Controller may cancel such licence.

Licence to a firm to be invalid on the change of partnership.

12. Where any firm has been licensed under this Act to manufacture or carry on business as dealer or manufacturer of a dangerous machine, such licence shall, notwithstanding anything contained in this Act, become invalid on and from the date on which there is a chance in the partnership of such firm, unless such change in the partnership of the firm has been approved by the Controller.

CHAPTER IV

DUTIES AND RESPONSIBILITIES OF THE MANUFACTURER OR DEALER OF A DANGEROUS MACHINE

Manufacturer to ensure that every part of a dangerous.

13. (1) Every manufacturer of a dangerous machine shall ensure that such machine and every part thereof complies with such standards, conforming to the standards laid down therefor by the Indian Standards Institution, as may be prescribed by the Central Government.

(2) In particular, and without prejudice to the generality of the foregoing provisions, the manufacturer of a dangerous machine shall

machine conforms to prescribed standards.

ensure that the following parts are secured by safeguards of substantial construction, namely:—

(a) the prime mover and every part thereof,

(b) the transmission machinery and every part thereof,

(c) every other dangerous part, such as, rollers, blowers, sieves elevator and the like.

(3) Every manufacturer of dangerous machine shall also clearly and legibly provide such machine with danger signals indicating the point beyond which no limb shall be inserted for the purpose of feeding the machine or for any other purpose.

Particulars to be specified on every dangerous machine.

14. The manufacturer shall ensure that the following particulars are legibly and conspicously marked or inscribed on every dangerous machine by such method as would make it indelible, namely:—

(a) the direction of the rotation and the number of rotations per minute;

(b) its power requirement; and

(c) the name and correct address of the manufacturer, the year of its manufacture, and the date, number and other particulars of the licence of the manufacturer.

Duties of the manufacturer to supply operator's manual with each dangerous machine.

15. Every manufacture shall supply along with each dangerous machine a manual containing general instructions regarding the operation of such machine, and shall also include therein such cautions, as may be prescribed.

Certificate and guarantee by manufacturers and dealers.

16. Before transferring the possession of any dangerous machine, whether by sale, lease, hire or otherwise, every manufacturer and every dealer shall deliver, to the person acquiring the possession of such machine, a declaration to the effect that the machine conforms to the standards laid down by or under this Act and also complies with in all respects, the provisions of this Act and the rules and orders made thereunder.

Liability of the manufacturer for reimbursement.

17. Whenever any person operating a dangerous machine suffers death or dismemberment of any limb or any other bodily injury:—

(i) by reason of any manufactuing defect in the machine whereby such death, dismemberment or injury was caused, or

(ii) by reason of the omission of the manufacturer to comply with the provisions of this Act and the rules and orders made thereunder,

such manufacturer shall be liable to reimburse the person by whom compensation had to be paid under this Act to the members of the family of the person whose death was caused by such machine, or as the case may be, to the person by whom such dismemberment or bodily injury was suffered.

18. Every manufacturer and every dealer shall maintain such registers, records and accounts as may be prescribed. Manufacturers and dealers to maintain records.

CHAPTER V

DUTIES AND OBLIGATIONS OF USERS OF DANGEROUS MACHINES

19. (*1*) Every person who owns a dangerous machine or acquires control over such machine, whether as a lessee or hirer or otherwise (in this Act referred to as the user) shall make, before beginning to operate such machine, an application to the Controller, on payment of such fees, not exceeding five rupees, as may be prescribed, for the registration of such machine. User to get each dangerous machine registered.

(*2*) On receipt of an application made under sub-section (*1*), the Controller shall, if he is satisfied that the machine complies with, in all respects, the provisions of this Act and the rules and orders made thereunder, register the same and grant to the applicant a certificate showing such registration.

(*3*) The Controller shall maintain a register containing the particulars of the dangerous machines registered by him and the names and addresses and other particulars of the persons on whose application such registration has been made.

(*4*) No dangerous machine shall be operated until it has been registered in accordance with the provisions of this section.

20. Every user of a dangerous machine shall ensure that— Matters to be ensured by users.

(*a*) such machine conforms to the standards laid down by or under this Act and also complies with, in all respects, the provisions of this Act and the rules and orders made thereunder;

(*b*) no child is employed for the operation of such machine; and

(*c*) adequate arrangements exist for rendering first aid to any person who may suffer any injury while operating any such machine.

21. (*1*) Every person who has, immediately before the commencement of this Act, in his custody or control, any dangerous machine which does not comply with, in all respects, the provisions of this Act and the rules and orders made thereunder, shall, within such time, not being less than one hundred and eighty days from such commencement, as the State Government may, by notification in the Official Gazette, specify, get the same modified in accordance with such rules as may be made by the Central Government in this behalf. Modification of existing dangerous machine.

(*2*) No such machine shall be used or operated, after the expiry of the period specified under sub-section (1), unless the modifications referred to in sub-section (*1*) have been made.

22. (*1*) If during his employment as an operator of a dangerous machine, death or dismemberment of any limb or any other bodily injury is caused to such operator, his employer shall be liable to pay compensation— Employer's liability for compensation.

(*a*) in the case of death of the operator, to his family; and

(*b*) in any other case, to the operator:

Provided that where the operator does not have a family, the compensation shall be paid to the person or persons nominated in this behalf by the operator in writing and notified to the Controller:

Provided further that the employer shall not be so liable—

(*i*) in respect of any injury which does not result in the total or partial disablement of the operator for a period exceeding three days; or

(*ii*) in respect of any injury, not resulting in death, caused by an accident which is directly attributable to—

(*a*) the operator having been at the time thereof under the influence of any intoxicant or drug, or

(*b*) the wilful removal by the worker of any safety guard or other device which he knew to have been provided in the machine for the purpose of securing the safety of the operator.

(*2*) The amount of the compensation payable under sub-section (*1*) shall be determined and paid in accordance with the provisions of the Workmen's Compensation Act, 1923 as if the operator were a workman within the meaning of that Act, and, for this purpose, the provisions of the said Act shall apply to him as they apply to a workman within the meaning of that Act. 8 of 1923

Notice of accident.

23. (*1*) Where the death or dismemberment of any limb or any other bodily injury has been caused to an operator, during the course of his employment, notice of such death, dismemberment or injury shall be given to the employer within three days from the date on which such death, dismemberment or injury was caused.

(*2*) Such notice shall be given by the operator if he is alive or by any member of his family or any other person interested in him.

(*3*) Omission to give the notice referred to in sub-section (*2*) shall not disentitle the operator or the members of his family, as the case may be, to receive the compensation payable under this Act.

Duty of employer to take out insurance policies.

24. (*1*) Every employer shall take out, as soon as may be particable after the commencement of this Act, one or more insurance policies providing for contracts of insurance whereby he is insured against any liability arising out of sub-section (*1*) of section 22 to make payment of compensation to any operator of a dangerous machine and such contract of insurance may provide for the payment of annuities to the operator, or in case of his death, to be members of his family or to his nominee, if he does not have a family.

(*2*) Every employer shall get the insurance policy referred to in sub-section (*1*) renewed from time to time before the expiry of the period of validity thereof so that the policy of insurance may remain in force throughout the period during which any person is employed by him to operate any dangerous machine.

Omission or failure of the employer to take out insurance policies

25. (*1*) In the event of the omission or failure of the employer to take out an insurance policy referred to in section 24 o in the event of the ommission, failure or inability of the employer to keep such insurance policy in force or to obtain, from the insurer, any amount required to be paid as compensation to an operator, or to the members of his family or

nominee, as the case may be, the employer shall make payment of compensation from his own funds, to the operator, or to the members of his family or his nominee, as the case may be, as soon as possible after the date on which the operator suffers death or dismemberment of limb or other bodily injury but not later than thirty days from such date and on such payment the employer's liability for payment of compensation to the operator or to the members of his family shall stand fully discharged.

(2) The discharge of the liability referred to in sub-section (1) shall not take away or abridge the right of, the employer to receive, from the insurer, such payment as may be due to him under the policy of insurance taken out or renewed by him.

CHAPTER VI

INSPECTION, SEARCH AND SEIZURE

Examination of machine causing death or injury.

26. (1) As soon as the employer comes to know, whether on receipt of a notice under section 23 or otherwise, that the operator has suffered death, dismemberment of any limb or other bodily injury during the operation of any dangerous machine, he shall forthwith give notice of such death or injury to the Inspector.

(2) Whenever an Inspector comes to know about any death or injury, whether on receipt of a notice referred to under sub-section (1) or otherwise, he shall, as soon as practicable, enter into the premises where the dangerous machine whereby such death, dismemberment of limb or other bodily injury has been caused, is located and examine the machine with a view to finding out whether the machine conforms to the standards laid down by or under this Act and contains all the prescribed safety devices, and, where, after such examination, he is of the opinion that the machine is unsafe, he shall, by an order, prohibit the use of such machine until it is certified by him to be safe.

(3) No machine shall be operated during the period of operation of the prohibitory order made under sub-section (2).

Inspection of records, etc.

27. Every register, record and accounts maintained under this Act and every licence issued or renewed under this Act shall be open to the inspection of the Inspector.

Power to enter and search.

28. An Inspector authorised in this behalf by the Controller may, if he has any reason to suspect that any provision of this Act has been, or is being, or is about to be, contravened, enter and search, at any reasonable time of the day, any premises in which any dangerous machine is operated.

Power of seizure.

29. Whenever the Inspector is satisfied that any dangerous machine, which does not comply with, in all respects, the provisions of this Act or the rules or orders made thereunder, is being operated in contravention of the provisions of this Act, he may seize such dangerous machine and the records and registers connected therewith.

Search and seizure to be made in accordance with the Code of Criminal Procedure, 1973.

30. Every search and seizure made under this Act shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973. 2 of 1974.

CHAPTER VII

OFFENCES AND THEIR TRIAL

Punishment for contravention of the provisions of the Act.

31. Whoever, in contravention of the provisions of this Act, or any rule or order made thereunder—

(*a*) manufactures, or carries on business as a manufacturer or dealer of, any dangerous machine without being in possession of a valid licence issued or renewed under this Act;

(*b*) employees a child in the operation of any dangerous machine;

(*c*) causes any person to operate a dangerous machine which does not conform to the standards specified by or under this Act;

(*d*) causes any person to operate any dangerous machine referred to in section 21, without carrying out the prescribed modifications;

(*e*) omits to take out or renew an insurance policy as required by section 24;

(*f*) sells or otherwise transfers any dangerous machine which does not conform to the provisions of this Act or the rules made thereunder;

(*g*) operates or causes any person to operate any dangerous machine during the period of operation of a prohibitory order made under sub-section (2) of section 26; or

(*h*) contravenes any other provision of this Act, or rule or order made thereunder.

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both, and in the case of a second or subsequent offence, shall be punishable with imprisonment for a term which shall not be less than three months and also with fine which shall not be less than five hundred rupees but not more than one thousand rupees.

Offences by companies.

32. (*1*) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individua's; and

(b) "director", in relation to a firm, means a partner in the firm.

2 of 1974.

33. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no court shall take cognizance of an offence punishable under this Act except on a complaint in writing made by the Controller or any person authorised by him in this behalf. Cognizance and trial of offences.

(2) Every offence under this Act may be tried summarily by a Magistrate.

CHAPTER VIII

MISCELLANEOUS

34. (1) Any person aggrieved by any order granting or refusing to issue or renew a licence under this Act or refusing to register a dangerous machine, may prefer an appeal against the order to the State Government. Appeals.

(2) Every such appeal shall be filed within thirty days from the date of the order:

Provided that the State Government may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period.

35. No suit, prosecution or other legal proceedings shall lie against the State Government, the Controller, any Inspector or any other person authorised by the Controller for eercising any powers or discharging any functions under this Act for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder. Protection of action taken in good faith.

36. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of sub-section (2) of section 9, and the provisions of sections 13 and 21. Power of Central Government to make rules.

(2) Every notification made by the Central Government under clause (c) of section 3, and every rule made by it under sub-section (1), shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successives sessions aforesaid, both Houses agree in making any modification in the notification or rule, or both Houses agree that the notification or rule should not be made, the notification or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule.

Power of State Government to make rules.

37. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act other than those specified in sub-section (1) of section 36.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the forms of licences to be issued under this Act and the conditions and restrictions subject to which such licences may be held under section 9;

(b) the fees (including late fees), within the limits specified in section 9, for the issue and renewal of licences under that section and for the registration of dealers, as provided in section 19;

(c) the cautions to be specified in the manual of instructions as required by section 15;

(d) the registers, records and accounts which are required to be maintained under section 18;

(e) the arrangement required to be made under section 20 for rendering first aid to any injured operator of a dangerous machine; and

(f) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Power to give directions.

38. The Central Government may give directions to any State Government as to the carrying into execution in the State of any of the provisions of this Act or of any rule or order made thereunder.

STATEMENT OF OBJECTS AND REASONS

A large number of accidents occur every year during the threshing season injuring persons operating power threshers, many of whom are permanently disabled. A major contributory factor is the unsafe design of power threshers and lack of safety features. It is necessary to regulate trade and commerce in and production, supply, distribution and use of power threshers to ensure that they conform to prescribed standards of safety in the interest of welfare of persons operating such threshers. Since chaff cutters, cane crushers, etc., are also dangerous machines used in agriculture, it is considered necessary to have legislation which can be extended to cover other dangerous machines, apart from power threshers used in the agricultural or rural sector. The Bill seeks to achieve these objectives.

NEW DELHI;
The 26th April, 1983.

RAO BIRENDRA SINGH.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 12-1/79-My (Plg) Pt. IV, dated the 30th April, 1983 from Rao Birendra Singh, Minister of Agriculture to the Secretary, Lok Sabha.]

The President, having been informed of the subject matter of the Dangerous Machines (Regulation) Bill, 1983, recommends the consideration of the Bill in Lok Sabha under article 117(3) of the Constitution.

FINANCIAL MEMORANDUM

Clause 5 of the Bill empowers the State Government to appoint a Controller and such number of Additional, Deputy or Assistant Controllers as it may deem fit. Clause 7 of the Bill empowers the State Government to appoint as many Inspectors as it deems fit to carry out the provisions of this Bill. In the case of Union territories, these appointments of Controllers and Inspectors, etc., are to be made by the Central Government and consequently the Bill, if enacted, would involve expenditure from the Consolidated Fund of India.

2. It is estimated that the Bill, if enacted, would involve a non-recurring expenditure of the order of Rs. 55,000 and recurring expenditure of the order of Rs. 1,73,800 per annum. In addition, the Bill, if enacted, would involve a non-recurring expenditure of the order of Rs. 5,000 and recurring expenditure of the order of Rs. 33,600 per annum by the Ministry of Agriculture.

MEMORANDUM REGARDING DELEGATED LEGISLATON

Clause 36 of the Bill empowers the Central Government to make rules for the purpose of giving effect to the provisions of this Bill in respect of matters falling within the purview of that clause.

Likewise, clause 37 empowers the State Governments to make rules in respect of matters not falling within the purview of clause 36.

These matters pertain to procedure, form or administrative detail. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 72 OF 1983

A Bill further to amend the Mines Act, 1952

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act, may be called the Mines (Amendment) Act, 1983.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2.

35 of 1952

2. In the Mines Act, 1952 (hereinafter referred to as the principal Act), in section 2, in sub-section (*1*),—

(*i*) *clause* (*a*) shall be omitted;

(*ii*) for clause (*c*), the following clause shall be substituted, namely:—

'(*c*) "agent", when used in relation to a mine, means every person, whether appointed as such or not, who, acting or purporting to act on behalf of the owner, takes part in the management, control, supervision or direction of the mine or of any part thereof;';

(*iii*) for clause (*e*), the following clause shall be substituted, namely:—

'(*e*) "Committee" means a committee constituted under section 12;';

(*iv*) for clause (*h*), the following clause shall be substituted, namely:—

'(*h*) a person is said to be "employed" in a mine who works as the manager or who works under appointment by the owner, agent or manager of the mine or with the knowledge of the manager, whether for wages or not—

(*i*) in any mining operation (including the concomitant operations of handling and transport of minerals up to the point of despatch and of gathering sand and transport thereof to the mine);

(*ii*) in operations or services relating to the development of the mine including construction of plan therein but excluding construction of buildings, roads, wells and any building work not directly connected with any existing or future mining operations;

(*iii*) in operating, servicing, maintaining or repairing any part of any machinery used in or about the mine;

(*iv*) in operations, within the premises of the mine, of loading for despatch of minerals;

(*v*) in any office of the mine;

(*vi*) in any welfare, health, sanitary or conservancy services required to be provided under this Act, or watch and ward, within the premises of the mine excluding residential area; or

(*vii*) in any kind of work whatsoever which is preparatory or incidental to, or connected with, mining operations;';

(*v*) clause (*ii*) shall be omitted;

(*vi*) for clause (*j*), the following clause shall be substituted, namely:—

(*i*) all borings, bore holes, oil wells and accessory crude the purpose of searching for or obtaining minerals has been or is being carried on and includes—

(*i*) all borings, bore holes, oil welss and accessory crude conditioning plants, including the pipe conveying mineral oil within the oilfields;

(*ii*) all shafts, in or adjacent to and belonging to a mine, whether in the course of being sunk or not;

(*iii*) all levels and inclined planes in the course of being driven;

(*iv*) all open cast workings;

(*v*) all conveyors or aerial ropeways provided for the bringing into or removal from a mine of minerals or other articles or for the removal of refuse therefrom;

(*vi*) all adits, levels, planes, machinery, works, railways, tramways and sidings in or adjacent to and belonging to a mine;

(*vii*) all protective works being carried out in or adjacent to a mine;

(*viii*) all workshops and stores situated within the precincts of a mine and under the same management and used primarily for the purposes connected with the mine or a number of mines under the same management;

(*ix*) all power stations, transformer sub-stations, convertor stations, rectifier stations and accumulator, storage stations for supplying electricity solely or mainly for the purpose of working the mine or a number of mines under the same management;

(*x*) any premises for the time being used for depositing sand or other material for use in a mine or for depositing refuse from a mine or in which any operations in connection with such sand, refuse or other material is being carried on, being premises exclusively occupied by the owner of the mine;

(*xi*) any premises in or adjacent to and belonging to a mine on which any process ancillary to the getting dressing or preparation for sale of minerals or of coke is being carried on;';

(*vii*) *clause* (*jjj*) shall be omitted;

(*viii*) in clause (*l*),—

(*a*) the words "and in the case of a mine owned by a company, the business whereof is being carried on by a managing agent, such managing agent" shall be omitted;

(*b*) for the words "any contractor", the words "any contractor or sub-lessee" shall be substituted;

(*ix*) for clause (*n*), the following clause shall be substituted namely:—

'(*n*) "qualified medical practitioner" means a medical practitioner who possesses any recognised medical qualification as defined in clause (*h*) of section 2 of the Indian Medical Council Act, 1956 and who is enrolled on a State medical register as defined in clause (*k*) of that section;';

102 of 1956

(*x*) after clause (*p*), the following clause shall be inserted, namely:—

'(*pp*) "reportable injury" means any injury other than a serious bodily injury which involves or in all probability will involve, the enforced absence of the injured person from work for a period of seventy-two hours or more;';

(*xi*) for clauses (*q*) and (*r*), the following clauses shall be substituted, namely:—

'(*q*) "serious bodily injury" means any injury which involves, or in all probability will involve, the permanent loss of any part or section of a body or the use of any part or section of a body, or the permanent loss of or injury to the sight or

hearing or any permanent physical incapacity or the fracture of any bone or one or more joints or bones of any phalanges of hand or foot;

(*r*) "week" means a period of seven days beginning at mid-night on Saturday night or such other night as may be approved in writing for a particular area by the Chief Inspector or an Inspector.'.

Amendment of section 3.

3. In section 3 of the principal Act, in sub-section (1),—

(a) in the opening portion, for the words and figures "sections 7, 8, 9, 44, 45 and 46", the words and figures "sections 7, 8, 9, 40, 45 and 46" shall be substituted;

(*b*) in clause (*b*),—

(*i*) after the words "building stone,", the word "slate," shall be inserted;

(*ii*) after the words "fullers earth", the words ",marl, chalk" shall be inserted.

Amendment of section 5.

4. In section 5 of the principal Act, in the proviso to sub-section (3), for the word and figures "section 22", the words, figures and letter "section 22 or section 22A" shall be substituted.

Amendment of section 7.

5. In section 7 of the principal Act, in sub-section (2),—

(*a*) for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted; 5 of 1898 2 of 1974.

(*b*) for the word and figures "section 98", the word and figures "section 94" shall be substituted.

Amendment of section 8.

6. In section 8 of the principal Act,—

(*a*) after the words "levelling or measuring any mine", the words "or any output therefrom" shall be inserted;

(*b*) after the words "level or measure the mine or any part thereof", the words "or any output therefrom" shall be inserted.

Insertion of new section 9A.

7. After section 9 of the principal Act, the following section shall be inserted, namely:—

Facilities to be provided for occupational Health survey

"9A. (1) The Chief Inspector or an Inspector or other officer authorised by him in writing in this behalf may, at any time during the normal working hours of the mine or at any time by day or night as may be necessary, undertake safety and occupational health survey in a mine after giving notice in writing to the manager of the mine; and the owner, agent or manager of the mine shall afford all necessary facilities (including facilities for the examination and testing of plant and machinery, for the collection of samples and other data pertaining to the survey and for the transport and

examination of any person employed in the mine chosen for the survey) to such Inspector or officer.

(2) Every person employed in a mine who is chosen for examination in any safety and occupational health survey under sub-section (1) shall present himself for such examination and at such place as may be necessary and shall furnish all information regarding his work and health in connection with the said survey.

(3) The time spent by any person employed in a mine who is chosen for examination in the safety and occupational health survey, shall be counted towards his working time, so however that any overtime shall be paid at the ordinary rate of wages.

Explanation.—For the purposes of this sub-section, "ordinary rate of wages" means the basic wages *plus* any dearness allowance and underground allowance and compensation in cash including such compensation, if any, accruing through the free issue of food-grains and edible oils as persons employed in a mine may, for the time being, be entitled to, but does not include a bonus (other than a bonus given as incentive for production) or any compensation accruing through the provision of amenities such as free housing, free supply of coal, medical and educational facilities, sickness allowance, supply of kerosene oil, baskets, tools and uniforms.

(4) Any person who, on examination under sub-section (2), is found medically unfit to discharge the duty which he was discharging in a mine immediately before such presentation shall be entitled to undergo medical treatment at the cost of the owner, agent and manager with full wages during the period of such treatment.

(5) If, after the medical treatment, the person referred to in sub-section (4) is declared medically unfit to discharge the duty which he was discharging in a mine immediately before presenting himself for the said examination and such unfitness is directly ascribable to his employment in the mine before such presentation, the owner, agent and manager shall provide such person with an alternative employment in the mine for which he is medically fit:

Provided that where no such alternative employment is immediately available, such person shall be paid by the owner, agent and manager disability allowance determined in accordance with the rates prescribed in this behalf:

Provided further that where such person decides to leave his employment in the mine, he shall be paid by the owner, agent and manager a lump sum amount by way of disability compensation determined in accordance with the rates prescribed in this behalf.

(6) The rates under the provisos to sub-section (5) shall be determined having regard to the monthly wages of the employees, the nature of disabilities and other related factors.".

Amendment of section 10.

8. In section 10 of the principal Act,—

(*a*) in sub-section (*1*), after the word "inspection", the words "or survey" and after the word and figure "section 9", the words, figure and letter "or section 9A" shall be inserted;

(*b*) in sub-section (*2*),—

(*i*) for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) a Committee or court of inquiry constituted or appointed under section 12 or section 24, as the case may be;";

(*ii*) for clause (*c*), the following clauses shall be substituted, namely:—

"(*e*) the Controller, Indian Bureau of Mines;

(*f*) any registered or recognised trade union;

(*g*) such other officer, authority or organisation as may be specified in this behalf by the Central Government.".

Amendment of section 11.

9. In section 11 of the principal Act, in sub-section (*4*), clause (*a*) and sub-clause (*ii*) of clause (*c*) shall be omitted.

Substitution of new sections for sections 12, 13 and 14.

10. For the heading "MINING BOARDS AND COMMITTEES", occurring immediately before section 12 of the principal Act, and for sections 12, 13 and 14 of the principal Act, the following heading and sections shall be substituted, namely:—

"COMMITTEES

Committees.

12. (*1*) **The Central Government shall, with effect from such date as that Government may, by notification in the Official Gazette, specify in this behalf, constitute for the purposes of this Act, a Committee consisting of—**

(*a*) a person in the service of the Government, not being the Chief Inspector or an Inspector, appointed by the Central Government to act as Chairman;

(*b*) the Chief Inspector of Mines;

(*c*) two persons to represent the interests of mines appointed by the Central Government;

(*d*) two persons to represent the interests of owners of mines appointed by the Central Government;

(*e*) two qualified mining engineers not directly employed in the mining industry, appointed by the Central Government :

Provided that one at least of the persons appointed under clause (*c*) shall be for representing the interests of workers in coal mines and one at least of the persons appointed under clause (*d*) shall be for representing the interests of owners of coal mines.

(2) Without prejudice to the generality of sub-section (1), the Central Government may constitute one or more Committees to deal with specific matters relating to any part of the territories to which this Act extends or to a mine or a group of mines and may appoint members thereof and the provisions of sub-section (1) (except the proviso thereto) shall apply for the constitution of any Committee under this sub-section as they apply for the constitution of a Committee under that sub-section.

(3) No act or proceeding of a Committee shall be invalid by reason only of the existence of any vacancy among its members or any defect in the constitution thereof.

Functions of the Committee.

13. (1) The Committee constituted under sub-section (1) of section 12 shall—

(a) consider proposals for making rules and regulations under this Act and make appropriate recommendations to the Central Government;

(b) enquire into such accidents or other matters as may be referred to it by the Central Government from time to time and make reports thereon; and

(c) subject to the provisions of sub-section (2), hear and decide such appeals or objections against notices or orders under this Act or the regulations, rules or bye-laws thereunder, as are required to be referred to it by this Act or as may be prescribed.

(2) The Chief Inspector shall not take part in the proceedings of the Committee with respect to any appeal or objection against an order or notice made or issued by him or act in relation to any matter pertaining to such appeal or objection as a member of the Committee.

Powers, etc., of the Committees.

14. (1) A Committee constituted under section 12 may exercise such of the powers of an Inspector under this Act as it thinks necessary or expedient to exercise for the purposes of discharging its functions under this Act.

(2) A Committee constituted under section 12 shall, for the purposes of discharging its functions, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely:—

5 of 1908.

(a) discovery and inspection;

(b) enforcing the attendance of any person and examining him on oath;

(c) compelling the production of documents; and

(d) such other matters as may be prescribed.".

Amendment of section 15.

11. In section 15 of the principal Act, for the words and figures "a Mining Board constituted under section 12 or by a Committee appointed under section 13", the words and figures "a Committee constituted under section 12" shall be substituted.

Amendment of section 16.

12. In section 16 of the principal Act, in sub-section (*1*), for the word "Director", the word "Controller" shall be substituted.

Substitution of new sections for sections 17 and 18.

13. For sections 17 and 18 of the principal Act, the following sections shall be substituted, namely:—

Managers.

"17. (*1*) Save as may be otherwise prescribed, every mine shall be under a sole manager who shall have the prescribed qualifications and the owner or agent of every mine shall appoint a person having such qualifications to be the manager:

Provided that the owner or agent may appoint himself as manager if he possesses the prescribed qualifications.

(*2*) Subject to any instructions given to him by or on behalf of the owner or agent of the mine, the manager shall be responsible for the overall management, control, supervision and direction of the mine and all such instructions when given by the owner or agent shall be confirmed in writing forthwith.

(*3*) Except in case of an emergency, the owner or agent of a mine or anyone on his behalf shall not give, otherwise than through the manager, instructions affecting the fulfilment of his statutory duties, to a person, employed in a mine, who is responsible to the manager.

Duties and responsibilities of owners, agents and managers.

18. (*1*) The owner and agent of every mine shall each be responsible for making financial and other provisions and for taking such other steps as may be necessary for compliance with the provisions of this Act and the regulations, rules, bye-laws and orders made thereunder.

(*2*) The responsibility in respect of matters provided for in the rules made under clauses (*d*), (*e*) and (*p*) of section 58 shall be exclusively carried out by the owner and agent of the mine and by such person (other than the manager) whom the owner or agent may appoint for securing compliance with the aforesaid provisions.

(*3*) If the carrying out of any instructions given under sub-section (*2*) or given otherwise than through the manager under sub-section (*3*) of section 17, results in the contravention of the provisions of this Act or of the regulations, rules, bye-laws or orders made thereunder, every person giving such instructions shall also be liable for the contravention of the provisions concerned.

(*4*) Subject to the provisions of sub-sections (*1*), (*2*) and (*3*), the owner, agent and manager of every mine shall each be responsible to see that all operations carried on in connection with the mine are conducted in accordance wth the provisions of this Act and of the regulations, rules, bye-laws and orders made thereunder.

(*5*) In the event of any contravention by any person whosoever of any of the provsions of this Act or of the regulations, rules, bye-laws or orders made thereunder except those which specifically require any person to do any act or thing or prohibit any person

from doing an act or thing besides the person who contravenes, each of the following persons shall also be deemed to be guilty of such contravention unless he proves that he had used due diligence to secure compliance with the provisions and had taken reasonable means to prevent such contravention:—

(*i*) the official or officials appointed to perform duties of supervision in respect of the provisions contravened;

(*ii*) the manager of the mine;

(*iii*) the owner and agent of the mine;

(*iv*) the person appointed, if any, to carry out the responsibility under sub-section (*2*):

Provided that any of the persons aforesaid may not be proceeded against if it appears on inquiry and investigation, that he is not *prima facie* liable.

(*6*) It shall not be a defence in any proceedings brought against the owner or agent of a mine under this section that the manager and other officials have been appointed in accordance with the provisions of this Act or that a person to carry the responsibility under sub-section (*2*) has been appointed.".

Amendment of section 19.

14. In section 19 of the principal Act, in sub-section (*2*), for the words "twenty feet", the words "six metres" shall be substituted.

Amendment of section 22.

15. In section 22 of the principal Act,—

(*a*) in sub-section (*3*), for the words "until the danger is removed", the words "until he is satisfied that the danger is removed" shall be substituted;

(*b*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*3A*) Every person whose employment is prohibited under sub-section (*1A*) or sub-section (*3*) shall be entitled to payment of full wages for the period for which he would have been, but for the prohibition in employment and the owner, agent or manager shall be liable for payment of such full wages of that person:

Provided that the owner, agent or manager may instead of paying such full wages provide such person with an alternative employment at the same wages which such person was receiving in the employment which was prohibited.";

(*c*) in sub-section (*6*), for the words "which shall refer", the words "which shall, ordinarily within a period of two months from the date of receipt of the objection, refer" shall be substituted;

(*d*) in sub-section (*7*), in the proviso, for the word "requisition", the word "notice" shall be substituted.

Insertion of new section 22A.

16. After section 22 of the principal Act, the following section shall be inserted, namely:—

Power to prohibit employment in certain cases.

"22A. (*1*) Where in respect of any matter relating to safety for which express provision is made by or under this Act, the owner, agent or manager of a mine fails to comply with such provisions, the Chief Inspector may give notice in writing requiring the same to be complied with within such time as he may specify in the notice or within such extended period of time as he may, from time to time, specify thereafter.

(*2*) Where the owner, agent or manager fails to comply with the terms of a notice given under sub-section (*1*) within the period specified in such notice or, as the case may be, within the extended period of time specified under that sub-section, the Chief Inspector may, by order in writing, prohibit the employment in or about the mine or any part thereof of any person whose employment is not, in his opinion, reasonably necessary for securing compliance with the terms of the notice.

(*3*) Every person whose employment is prohibited under sub-section (*2*), shall be entitled to payment of full wages for the period for which he would have been, but for the prohibition, in employment, and the owner, agent or manager shall be liable for payment of such full wages of that person:

Provided that the owner, agent or manager may, instead of paying such full wages, provide such person with an alternative employment at the same wages which such person was receiving in the employment which was prohibited under sub-section (*2*).

(*4*) The provisions of sub-sections (*5*), (*6*) and (*7*) of section 22 shall apply in relation to a notice issued under sub-section (*1*) or an order made under sub-section (*2*) of this section as they apply in relation to a notice under sub-section (*1*) or an order under sub-section (*1A*) of that section.".

Amendment of section 23.

17. In section 23 of the principal Act,—

(*a*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) Whenever there occurs in or about a mine an accident causing reportable injury to any person, the owner, agent or manager of the mine shall enter in a register such occurrence in the prescribed form and copies of such entries shall be furnished to the Chief Inspector once in a quarter.";

(*b*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) The Central Government may, by notification in the Official Gazette, direct that accidents other than those specified in sub-sections (*1*) and (*1A*) which cause bodily injury resulting

in the enforced absence from work of the person injured for a period exceeding twenty-four hours shall be entered in a register in the prescribed form or shall be subject to the provisions of sub-section (*1*) or sub-section (*1A*), as the case may be.";

(c) after sub-section (*4*), the following sub-section shall be inserted, namely:—

"(*5*) Whenever there occurs in or about a mine an accident causing loss of life or serious bodily injury to any person, the place of accident shall not be disturbed or altered before the arrival or without the consent of the Chief Inspector or the Inspector to whom notice of the accident is required to be given under sub-section (*1*) of section 23, unless such disturbance or alteration is necessary to prevent any further accident, to remove bodies of the deceased, or to rescue any person from danger, or unless discontinuance of work at the place of accident would seriously impede the working of the mine:

Provided that where the Chief Inspector or the said Inspector fails to inspect the place of accident within seventy-two hours of the time of the accident, work may be resumed at the place of the accident.".

Amendment of section 27.

18. In section 27 of the principal Act, for the word and figures "section 13", the word and figures "section 12" shall be substituted.

Amendment of section 33.

19. In section 33 of the principal Act, for sub-sections (*2*) and (*3*), the following sub-section shall be substituted, namely:—

'(*2*) Where any person employed in a mine is paid on piece-rate basis, the time-rate shall be taken as equivalent to the daily average of his full-time earnings for the days on which he actually worked during the week immediately preceding the week in which overtime work has been done, exclusive of any overtime, and such time-rate shall be deemed to be the ordinary rate of wages of such person;

Provided that if such person has not worked in the preceding week on the same or identical job, the time-rate shall be based on the average for the days he has worked in the same week excluding the overtime or on the daily average of his earnings in any preceding week, whichever is higher.

Explanation.—For the purposes of this section, "ordinary rate of wages" shall have the same meaning as in the *Explanation* to sub-section (*3*) of section 9A.'.

Amendment of section 38.

20. In section 38 of the principal Act, in sub-section (*1*), after the words and figures "subject to the provisions of section 22", the words, figures and letter "and section 22A" shall be inserted.

Amendment of section 39.

21. In section 39 of the principal Act, in the opening portion, for the words "Save in respect of adolescents, the Central Government", the words "The Central Government" shall be substituted.

Substitution of new section for section 40.

22. For section 40 of the principal Act, the following section shall be substituted, namely:—

Employment of persons below eighteen years of age.

'40. (*1*) After the commencement of the Mines (Amendment) Act, 1983, no person below eighteen years of age shall be allowed to work in any mine or part thereof.

(*2*) Notwithstanding anything contained in sub-section (*1*), apprentices and other trainees, not below sixteen years of age, may be allowed to work, under proper supervision, in a mine or part thereof by the manager:

Provided that in the case of trainees, other than apprentices, prior approval of the Chief Inspector or an Inspector shall be obtained before they are allowed to work.

Explanation.—In this section and in section 43, "apprentice" means an apprentice as defined in clause (*a*) of section 2 of the Apprentices Act, 1961.'. 52 of 1961.

Omission of sections 41 and 42.

23. Sections 41 and 42 of the principal Act shall be omitted.

Substitution of new section for section 43.

24. For section 43 of the principal Act, the following section shall be substituted, namely:—

Power to require medical examination.

"43. (*1*) Where an Inspector is of opinion that any person employed in a mine otherwise than as an apprentice or other trainee is not an adult or that any person employed in a mine as an apprentice or other trainee is either below sixteen years of age or is no longer fit to work, the Inspector may serve on the manager of the mine a notice requiring that such person shall be examined by a certifying surgeon and such person shall not, if the Inspector so directs, be employed or permitted to work in any mine until he has been so examined and has been certified that he is an adult or, if such person is an apprentice or trainee, that he is not below sixteen years of age and is fit to work.

(*2*) Every certificate granted by a certifying surgeon on a reference under sub-section (*1*), shall, for the purpose of this Act, be conclusive evidence of the matters referred therein.".

Omission of section 44.

25. Section 44 of the principal Act shall be omitted.

Substitutions of new section for section 45.

26. For section 45 of the principal Act, the following section shall be substituted, namely:—

Prohibition of the presence of persons below eighteen years of age in a mine.

"45. Subject to the provisions of sub-section (2) of section 40, after such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, no person below eighteen years of age shall be allowed to be present in any part of a mine above ground where any operation connected with or incidental to any mining operation is being carried on.".

Amendment of section 48.

27. In section 48 of the principal Act, in sub-section (*1*), clause (*d*) shall be omitted.

Amendment of section 49.

28. In section 49 of the principal Act, for the proviso, the following proviso shall be substituted, namely:—

"Provided that if such award, agreement or contract of service, provides for a longer annual leave with wages than that provided in this Chapter, the quantum of leave, which the person employed shall be entitled to, shall be in accordance with such award, agreement or contract of service, but leave shall be regulated in accordance with the provisions of sections 50 to 56 (both inclusive) with respect to matters not provided for in such award, agreement or contract of service.".

29. In section 52 of the principal Act,—

Amendment of section 52.

(*a*) in sub-section (*1*), in clause (*a*), for the words "sixteen days", the words "fifteen days" shall be substituted;

(*b*) after sub-section (*9*) and before the *Explanation*, the following sub-section shall be inserted, namely:—

"(*10*) Where a person employed in a mine is discharged or dismissed from service or quits his employment or is superannuated or dies while in service, he or his heirs or his nominee, as the case may be, shall be entitled to wages in lieu of leave due to him calculated at the rate specified in sub-section (*1*), if,—

(*a*) in the case of a person employed below ground in a mine, he has put in attendance for not less than one-half of the total number of days from the date of his employment to the date of his discharge or dismissal or quitting of employment or superannuation or death; and

(*b*) in any other case, he has put in attendance for not less than two-thirds of the total number of days from the date of his employment to the date of his discharge or dismissal or quitting of employment or superannuation or death,

and payment of such wages shall be made by the owner, agent or manager of the mine at the rate specified in section 53,

where the person is discharged or dismissed from service or quits employment or is superannuated, before the expiry of the second working day after such discharge, dismissal, quitting of employment or superannuation, as the case may be, and where the person employed dies while in service, within a period of two months of his death.";

(c) in the *Explanation*, for the words, brackets and figures "sub-sections (*1*) and (*3*)", the words, brackets and figures "sub-sections (*1*), (*3*) and (*10*)" shall be substituted.

Amendment of section 57.

30. In section 57 of the principal Act,—

(*a*) in clause (*j*), the words "adolescents and" shall be omitted;

(*b*) in clause (*q*), for the words "for providing for the safety of persons present on haulage roads", the words "for regulating the use of machinery in mines, for providing for the safety of persons employed on or near such machinery and on haulage roads" shall be substituted;

(*c*) in clause (*u*), for the words "for prescribing the plans, and sections and field notes connected therewith, to be kept by owners, agents and managers of mines", the words "for requiring owners, agents and managers of mines to have fixed boundaries for the mines, for prescribing the plans and sections and field notes connected therewith to be kept by them" shall be substituted;

(*d*) in clause (*v*), the words "for dealing effectively with the situation" shall be inserted at the end;

(*e*) in clause (*x*), for the words "fifty yards", the words "forty-five metres" shall be substituted.

Amendment of section 58.

31. In section 58 of the principal Act,—

(*a*) for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) for providing the term of office and other conditions of service of, and the manner of filling vacancies among, the members of a Committee and for regulating the procedure to be followed by a Committee for transacting its business;";

(*b*) in clause (*c*), after the words "connected with the enquiry", the words "in the same manner as an arrear of land revenue" shall be inserted;

(*c*) after clause (*c*), the following clause shall be inserted, namely:—

"(*cc*) for providing for inspection of mines to be carried out on behalf of the persons employed therein by a technical expert (not less than an overman in status), the facilities therefor, the frequency at which and the manner in which such inspections are to be carried out and the manner in which reports of such inspections are to be made;";

(*d*) clause (*k*) shall be omitted;

(*e*) **in clause (*u*), for the words "six pies per ton", the words "twenty-five paise per tonne" shall be substituted;**

(*f*) in clause (*v*), the word "and" occurring at the end shall be omitted and after clause (*v*) as so amended, the following clause shall be inserted, namely:—

"(*vv*) for providing for the constitution of safety Committees for groups of specified mines or for all mines in a specified area for promoting safety and for laying down the composition, manner of formation and functions of such safcty Committees, and;".

Amendment of section 59.

32. In section 59 of the principal Act,—

(*a*) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) No regulation or rule shall be made unless the draft thereof has been referred to the Committee constituted under sub-section (*1*) of section 12 and unless that Committee has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.";

(*b*) sub-section (7) shall be omitted.

Amendment of section 60.

33. In section 60 of the principal Act,—

(*a*) for the words "Mining Boards", the words "the Committee constituted under sub-section (*1*) of section 12" shall be substituted;

(*b*) in the proviso, after the words "so made", the words "shall be sent to the said Committee for information and" shall be inserted.

Amendment of section 61.

34. In section 61 of the principal Act,—

(*a*) in sub-section (*1*), for the words "for the control and guidance of the persons acting in the management of, or employed in, the mine", the words "governing the use of any particular machinery or the adoption of a particular method of working in the mine" shall be substituted;

(*b*) in sub-section (3), for the words "Mining Board or, where there is no Mining Board, to such officer or authority as the Central Government may, by general or special order, appoint in this behalf", the words "Committee constituted under sub-section (*1*) of section 12" shall be substituted;

(*c*) in sub-section (4), in clause (*a*), for the words "Mining Board or such officer or authority as aforesaid", the words "Committee constituted under sub-section (*1*) of section 12" shall be substituted.

Insertion of new section 61A.

35. After section 61 of the principal Act, the following section shall be inserted, namely:—

Laying of regulations, rules and bye-laws before Parliament.

"61A. Every regulation made under section 57, every rule made under section 58 and every bye-law made under section 61 shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation, rule or bye-

law or both Houses agree that the regulation, rule or bye-law should not be made, the regulation, rule or bye-law shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation, rule or bye-law, as the case may be.".

Amendment of section 65.

36. In section 65 of the principal Act, for the word and figures "section 40", the word and figures "section 43" shall be substituted.

Substitution of new section for section 68.

37. For section 68 of the principal Act, the following section shall be substituted, namely:—

Penalty for employment of persons below eighteen years of age.

"68. If a person below eighteen years of age is employed in a mine in contravention of section 40, the owner, agent or manager of such mine shall be punishable with fine which may extend to five hundred rupees.".

Amendment of section 72B.

38. In section 72B of the principal Act,—

(*a*) after the word and figures "section 22", the words, brackets, figures and letter "or under sub-section (*2*) of section 22A" shall be inserted;

(*b*) the following proviso shall be inserted at the end, namely:—

"Provided that in the absence of special and adequate reasons to the contrary to be recorded in writing in the judgment of the court, such fine shall not be less than two thousand rupees.".

Amendment of Section 72C.

39. In section 72C of the principal Act, in sub-section (*1*),—

(*a*) after the word and figures "section 22", the words, brackets, figures and letter "or under sub-section (*2*) of section 22A" shall be inserted;

(*b*) the following proviso shall be inserted at the end, namely:—

"Provided that in the absence of special and adequate reasons to the contrary to be recorded in writing in the judgment of the court, such fine, in the case of a contravention referred to in clause (*a*), shall not be less than three thousand rupees.".

Amendment of Section 75.

40. In section 75 of the principal Act, in the proviso, for the words "Provided that", the words "Provided further that" shall be substituted, and before the proviso as so amended, the following proviso shall be inserted, namely:—

"Provided that the Chief Inspector or the district magistrate or the Inspector as so authorised shall, before instituting such prosecution, satisfy himself that the owner, agent or manager had failed to exercise all due diligence to prevent the commission of such offence.".

Amendment of section 76.

41. In section 76 of the principal Act, for the proviso, the following proviso shall be substituted, namely:—

"Provided that where a firm, association or company has given notice in writing to the Chief Inspector that it has nominated,—

(*a*) in the case of a firm, any of its partners or managers;

(*b*) in the case of an association, any of its members or managers;

(c) in the case of a company, any of its directors or managers,

who is resident, in each case in any place to which this Act extends, and who is in each case either in fact in charge of the management of, or holds the largest number of shares in such firm, association or company, to assume the responsibility of the owner of the mine for the purposes of this Act, such partner, member, director or manager, as the case may be, shall, so long as he continues to so reside and be in charge or hold the largest number of shares as aforesaid, be deemed to be the owner of the mine for the purposes of this Act unless a notice in writing cancelling his nomination or stating that he has ceased to be a partner, member, director or manager, as the case may be, is received by the Chief Inspector.

Explanation.—Where a firm, association or company has different establishments or branches or different units in any establishment or branch, different persons may be nominated under this proviso in relation to different establishments or branches or units and the person so nominated shall, with respect only to the establishment, branch or unit in relation to which he has been nominated be deemed to be the owner of the mine.".

Amendment of section 79.

42. In section 79 of the principal Act,—

(*a*) after clause (*ii*), the following clause shall be inserted, namely:—

"(*iia*) in any case in which the accused is or was a public servant and previous sanction of the Central Government or of the State Government or of any other authority is necessary for taking cognizance of the offence under any law for the time being in force, within three months of the date on which such sanction is received by the Chief Inspector, or";

(*b*) in clause (*iii*), for the words "six months", the words "one year" shall be substituted.

Amendment of section 80

43. In section 80 of the principal Act, for the words "presidency magistrate or magistrate of the first class", the words "Metropolitan Magistrate or Judicial Magistrate of the first class" shall be substituted.

Omission of section 80A.

44. Section 80A of the principal Act shall be omitted.

Amendment of section 81.

45. In section 81 of the principal Act, in sub-sections (1) and (2), the words "a Mining Board or" shall be omitted.

Amendment of section 83.

46. In section 83 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) for the words "all or any of the provisions of this Act", the words "all or any of the provisions of this Act or the regulations, rules or bye-laws" shall be substituted;

(*ii*) in the proviso, for the word and figures "section 45", the words and figures "sections 40 and 45" shall be substituted;

(*b*) in sub-section (*2*), for the words "regulations or rules under this Act", the words "regulations, rules or bye-laws" shall be substituted.

Amendment of section 84.

47. Section 84 of the principal Act shall be re-numbered as sub-section (*1*) of that section and after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

"(*2*) The Chief Inspector may, for reasons to be recorded in writing, reverse or modify any order passed by him under this Act or under any regulation, rule or bye-law.

(*3*) No order prejudicial to the owner, agent or manager of a mine shall be made under this section unless such owner, agent or manager has been given a reasonable opportunity of making representation."

Insertion of new sections 85B and 85C.

48. After section 85A of the principal Act, the following sections shall be inserted, namely:—

Signing of returns, notices, etc.

"85B. All returns and notices required to be furnished or given or communications sent by or on behalf of the owner of a mine in connection with the provisions of this Act or any regulation, rule, bye-law or any order made thereunder shall be signed by the owner, agent or manager of the mine or by any person to whom power in this behalf has been delegated by the owner by a power of attorney.

No fee or charge to be realised for facilities and conveniences.

85C. **No fee or charge shall be realised from any person employed in a mine in respect of any protective arrangements or facilities to be provided, or any equipment or appliances to be supplied under the provisions of this Act.**".

Transitory provision.

49. (*1*) As from the date of constitution of the Committee under sub-section (*1*) of section 12 of the principal Act as amended by this Act—

(*i*) any Mining Board constituted under section 12 of the principal Act and functioning as such on the aforesaid date shall stand dissolved;

(*ii*) the Chairman and members of any such Board, who on the aforesaid date are members of that Mining Board shall cease to hold office as such;

(*iii*) all proceedings pending on the aforesaid date in any Mining Board shall stand transferred to the said Committee which shall dealt with them as if they had been pending therein.

(2) Anything done or any action taken before the aforesaid date by any Mining Board shall, so far as it is not inconsistent with any of the provisions of the principal Act as amended by this Act, be as valid and effective as if it had done or taken by the Committee.

STATEMENT OF OBJECTS AND REASONS

The Mines Act, 1952 seeks to regulate the working conditions in mines by providing for measures to be taken for the safety of the workers employed therein and certain amenities for them. In the light of the working of the Act, certain modifications of the provisions of the Act have become necessary. They mainly relate to (1) the removal of certain practical difficulties experienced in its enforcement; (2) provision for additional safety regulations; (3) closer association of workers with safety measures; (4) provision for a minimum penalty in case of gross negligence or recklessness; and (5) increase in the levy of the cess for the administration of central rescue stations.

2. The notes on clauses appended to the Bill explain the provisions thereof.

NEW DELHI;
The 5th May, 1983.

VEERENDRA PATIL

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. S-29012|2|82-MI, dated the 6th May, 1983 from Shri Veerendra Patil, Minister of Labour and Rehabilitation to the Secretary, Lok Sabha.]

The President, having been informed of the subject matter of the proposed Bill further to amend the Mines Act, 1952, has in pursuance of clauses (1) and (3) of article 117 of the Constitution of India, recommended to Lok Sabha the introduction and consideration of the Bill.

Notes on clauses

Clause 2.—This clause seeks mainly to amend the definition of the expressions "agent", "a person employed in mine", "mine" and "serious bodily injury" to make them more comprehensive. The present definition of "serious bodily injury" convers two distinct types of injuries, i.e. those that are reported because of the time involved in recovery and others which cause injury to any particular limb etc. Invariably, injuries of the former type are reported only after statutory period of absence (20 days) is exceeded, whereas those of the latter type are reported forthwith. Therefore, a distinction has necessarily to be made between the two types of injuries which, are at present covered under the definition of "serious bodily injury". It is, therefore proposed to amend the definition of "serious bodily injury" and introduce a new definition of "reportable injury" to cover injuries which result in forced absence for a period of 72 hours or more. The other amendments in this clause are verbal and consequential.

Clause 3.—*Sub-clause* (*a*).—The amendment proposed in this sub-clause is consequential to the substitution of section 40 with a new section and omission of section 44 under clauses 22 and 25.

Sub-clause (*b*).—This sub-clause seeks to bring any mine engaged in the extraction of "slate", "marl" and "chalk" in the category of mines exempted from certain provisions of the Mines Act as there are at present a large number of mines producing slate, marl and chalk, most of which are small and shallow and worked irregularly.

Clause 4.—The amendment proposed in this clause is consequential to the insertion of a new section 22A as proposed in clause 16.

Clause 5.—The amendment proposed in this clause has become necessary in view of the coming into force of the Code of Criminal Procedure, 1973 (2 of 1974).

Clause 6.—This clause seeks to enlarge the powers of the special officer under section 8 of the Mines Act so as to enable him to measure also any output in a mine.

Clause 7.—This clause seeks to insert a new section 9A with a view to empower the Mines Inspectorate to undertake safety and occupational health survey in mines. This provision is based on the recommendation made at the 16th Session of the Indian Labour Conference in this behalf. The time spent by any person chosen for examination in such safety and occupational health survey shall be counted towards his working time, so however, that any overtime shall be paid at the ordinary rate of wages. It also clarifies the different items that should be included in the "ordinary rate of wages" for calculation of extra wages for overtime. If any such person is found medically unfit on such survey, he shall be entitled to medical treatment at the cost of the owner, agent or manager with full wages during the period of such treatment. If after such treatment he is declared unfit to discharge the duty which he was discharging and such unfitness is directly ascribable to his employment, he is entitled

for an alternative employment in the mine for which he is medically fit or for payment of disability allowance. It also provides for payment of lump sum amount where he desires to leave the employment.

Clause 8.—*Sub-Clause* (a).—The amendment proposed to sub-section (1) of section 10 of the Mines Act is consequential to the amendment proposed in clause 7.

Sub-clause (*b*).—The changed in clause (b) of sub-section (2) of the said section 10 is consequential to the amendment proposed in clause 10 and the change in clause (e) of that sub-section is necessitated because of the change in the designation of the post of "Director, Indian Bureau of Mines" to "controller, Indian Bureau of Mines". The new clauses (f) and (g) proposed to be inserted in the said sub-section empower the person referred to in sub-section (1) of section 10 to disclose the information obtained under the said sub-section to any registered or recognised trade union and to such officer, authority or organisation as may be specified by the Central Government in this behalf.

Clause 9.—The amendment proposed in this clause is consequential to the amendment proposed in clause 22.

Clause 10.—This clause seeks to substitute sections 12, 13 and 14 of the Mines Act with new sections. New section 12 seeks to provide for the constitution of a Committee in place of Mining Boards and constitution or one or more Committees to deal with specific matters relating to a mine or a group of mines or areas. The composition of the Committee is also provided in that section. New section 13 seeks to provide for the functions of the Committee and new section 14 seeks to provide for the powers of the Committee for discharging its functions.

Clauses 11 *and* 12.—The amendments proposed in these clauses are consequential to the amendments proposed in clause 10 and sub-clause (b) of clause 8.

Clause 13.—The existing sections 17 and 18 of the Mines Act are proposed to be replaced by new sections 17 and 18 with a view to making the owner, agent or manager of a mine responsible to the extent of his statutory duties specified under the Mines Act and the rules, regulations, etc., made thereunder and for that purpose also to specify in the Mines Act more clearly the duties and responsibilities of the owners.

Clause 14.—The amendment proposed in this clause is consequential to the introduction of "metric system".

Clause 15.—This clause seeks to clarify that the prohibitory order issued under sub-section (3) of section 22 by the Chief Inspector or an Inspector shall remain valid until the Chief Inspector or the Inspector is satisfied that the danger is removed. It is also proposed to insert a new sub-section (3A) in section 22. It provides for the payment of full wages or alternative employment at the same wages to a person whose employment is prohibited under sub-section (1A) or sub-section (3). The amendment to sub-section (6) of section 22 seeks to ensure that there is no delay in referring the objection received under this section to the Committee by the Central Government. The other amendment in this clause is of a consequential nature.

Clause 16.—This clause seeks to insert a new section 22A to enable the Chief Inspector to prohibit employment of persons in cases where, despite warnings, the owner, agent or manager does not show any improvement in regard to safety matters. It also provides for payment of full wages or alternative employment at the same wages to a person whose employment is so prohibited.

Clause 17—*Sub-clause* (*a*).—This sub-clause seeks to insert a new sub-section (1A) in section 23 of the Mines Act dealing with an accident causing reportable injury to any person. This is consequential to the insertion of a new definition of "reportable injury" [*vide* clause 2 (x)].

Sub-clause (*b*).—Under sub-section (3) of section 23 of the Mines Act, bodily injury resulting in the forced absence of an injured person from work for a period exceeding 48 hours is required to be entered in a register. It is proposed to reduce this period of forced absence from 48 hours to 24 hours. The other amendment is consequential to the insertion of the new sub-section (1A) [*vide* sub-clause (a)].

Sub-clause (c).—This sub-clause seeks to insert a new sub-section (5) to provide that a place of accident causing loss of life or serious bodily injury should not be disturbed before the arrival, or without the consent, of the Chief Inspector or an Inspector. This provision already exists in the regulations framed under the Mines Act. Being a substantive and important provision, it is considered necessary to include it in the Mines Act itself.

Clause 18.—The amendment proposed in this clause is consequential to the amendment proposed in clause 10.

Clause 19.—The fixation of time-rate as per existing sub-section (2) of section 33 is administratively found not practicable and the amendments seek to modify sub-section (2) suitably to overcome these difficulties. It also clarifies different items that should be included in the "ordinary rate of wages" for calculation of extra wages for overtime.

Clauses 20 *and* 21.—The amendments proposed in these clauses are consequential to the insertion of new section 22A as proposed in clause 16 and the substitution of section 40 with a new section as proposed in clause 22.

Clause 22.—This clause seeks to substitute section 40 of the Mines Act with a new section prohibiting employment of persons below eighteen years of age in place of the existing provision prohibiting adolescents. However, it permits apprentices and other trainees not below sixteen years of age to work, with the prior approval of the Chief Inspector or an Inspector, in a mine or part thereof by the manager under proper supervision.

Clauses 23 *and* 25.—These clauses seek to omit sections 41, 42 and 44. These omissions are consequential to the substitution of section 40 with a new section as proposed in clause 22.

Clause 24.—This clause seeks to substitute section 43 of the Mines Act with a new section which provides for the medical examination of any person employed in a mine otherwise than as an apprentice or other

trainee who is not an adult or any person employed in a mine as an apprentice or other trainee who is either below sixteen years of age or is no longer fit to work. It also provides for grant of a certificate by a certifying surgeon certifying that such person is an adult or is an apprentice or trainee not below sixteen years of age and fit to work.

Clause 26.—This clause seeks to substitute section 45 of the Mines Act with a new section prohibiting the presence of a person below eighteen years of age in any part of a mine above ground where any operation connected with or incidental to any mining operation is carried on. This is consequential to the substitution of section 40 with a new section as proposed in clause 22.

Clause 27.—The amendment proposed in this clause is consequential to the substitution of section 40 with a new section as proposed in clause 22.

Clause 28.—This clause seeks to amend section 49 of the Mines Act in order to clarify that such of the benefits provided for in the Mines Act as are more favourable to the persons employed in a mine than those provided for under the provisions of an award, agreement or contract of service relating to those persons should be made available to them.

Clause 29.—*Sub-clause* (*a*).—Presently, the annual leave with wages of a person employed in a mine is calculated at the rate of one day for every sixteen days of work performed by him. It is proposed to modify this calculation by making it at the rate of one day for every fifteen days of work performed by such person.

Sub-clause (*b*).—It is proposed to insert a new sub-section in section 52 of the Mines Act to provide for grant of proportionate leave in case of persons employed in a mine whose services are terminated or who quit their employment or are superannuated or die during the course of the year if they have put in certain minimum number of attendance.

Sub-clause (*c*).—The amendment proposed in this sub-clause is consequential to the amendment proposed in sub-clause (b).

Clause 30.—*Sub-clause* (*a*).—The amendment proposed in this sub-clause is consequential to the substitution of section 40 with a new section as proposed in clause 22.

Sub-clause (*b*).—The amendment proposed to clause (q) of section 57 is intended to empower the Central Government to make regulations for regulating the use of machinery in mines and for providing for the safety of persons employed in or near such machinery and on haulage roads. The need for such a provision arises due to the operation of many types of new machinery, such as mechanical loaders, shuttle cars, etc., the use of which in mines introduces special hazards.

Sub-clause (c).—This sub-clause seeks to amend clause (u) of section 57 to make an enabling provision so that owners, agents and managers of mines may be required to have well-defined boundary for every mine.

Sub-clause (*d*).—Power is also being taken under this sub-clause to enable the Central Government to make regulations for evolving stand-

ing procedures to deal effectivcly with any emergency situation caused by accidents or accidental explosions or ignitions. This provision is based on the recommendation made by the I.L.O. experts in their report to the Government on "Mines Safety".

Sub-clause (*e*).—The amendment proposed in this sub-clause is consequential to the introduction of "metric system".

Clause 31.—*Sub-clause* (*a*).—The amendment proposed in this sub-clause is consequential to the amendment proposed in clause 10.

Sub-clause (*b*).—The amendment proposed to clause (c) of section 58 of the Mines Act enables the Central Government to recover the expenses of Court of inquiry under section 24 from the manager, owner or agent of the mine concerned in the same manner as an arrear of land revenue.

Sub-clause (c).—This sub-clause seeks to introduce a new provision in section 58 to provide for inspection of mines by workers' representatives as this would help not only in checking contraventions but also in securing workers' cooperation in safety measures. This provision is based on the recommendation made by the first Conference on Safety in Mines.

Sub-clause (*e*).—This sub-clause seeks to enhance the levy and collec-(k) of section 58 of the Mines Act and is consequential to the substitution of section 40 with a new section as proposed in clause 22.

Sub-caluse (*e*).—This sub-clause seeks to enhance the levy and collection of duty of excise on coke and coal produced in, and despatched from, a mine from six pies per ton to twenty-five paise per tonne.

Sub-clause (*f*).—This sub-clause gives effect to another recommendation made by the first Conference on Safety in Mines with a view to providing for an effective method of associating workers with promotion of safety in mines by formation of safety Committee.

Clause 32.—*Sub-clause* (*a*).—The amendment proposed in this clause is consequential to the amendment proposed in clause 10.

Sub-clause (*b*).—Sub-section (7) of section 59 of the Mines Act is proposed to be omitted in consequence of the new section 61A (*vide* clause 35) which provides for the laying of regulations, rules and bye-laws made under the Mines Act before each House of Parliament.

Clause 33.—The amendments proposed in this clause are consequential to the amendment proposed in clause 10.

Clause 34.—Sub-section (1) of section 61 provides for submission of draft bye-laws for the control and guidance of persons acting in the management of, or employed in, the mine so as to prevent accidents and to provide for the safety, convenience and discipline of persons employed in the mine. Sub-clause (a) seeks to amplify that the bye-laws to be drafted may also provide, in addition, for safe working of special type of machinery or method of working in the mine. The other amendments are consequential to the amendment proposed in clause 10.

Clause 35.—The new section 61A provides for laying of regulations, rules and bye-laws made under the Mines Act before each House of Parliament in conformity with the procedure now being followed.

Clauses 36 *and* 37.—The amendments proposed in these clauses are consequential to the amendments proposed in clauses 22 and 24.

Clauses 38 *and* 39.—These clauses seek to fix the quantum of minimum fines to be imposed for more serious types of offences under the Mines Act. The other amendments are consequential to the insertion of new section 22A as proposed in clause 16.

Clause 40.—Under section 75 of the Mines Act, no prosecution shall be instituted against any owner, agent or manager for any offence under the Mines Act except at the instance of the Chief Inspector or of the district magistrate or of an Inspector authorised in this behalf. It is proposed to insert a proviso in that section to the effect that the Chief Inspector or the district magistrate or the Inspector shall, before instituting such prosecution, satisfy himself that the owner, agent or manager had failed to exercise all due diligence to prevent the commission of such offence.

Clause 41.—Section 76 of the Mines Act provides for the determination of owner in certain cases. Under the proviso to that section, a firm association or company can nominate its partners, members or directors, as the case may be, to assume the responsibility of the owner of the mine. The proposed amendment empowers such firm, association or company to nominate managers also. It also enables a firm, association or company which has different establishments or branches to nominate different persons in relation to different establishments or branches.

Clause 42.—Under secton 79 of the Mines Act, prosecution for offences under the Act become time-barred after six months of the date of the alleged offence or the date on which the alleged offence came to the knowledge of the Inspector. In some circumstances where the managers and agents employed in Government owned mines were prosecuted, the cases were discharged because the Government concerned did not accord sanction for their prosecution within six months of the date of the alleged offence. No further action could be taken in such cases. The amendment proposed in sub-clause (a) is intended to overcome the difficulty experienced in such cases. In a case where the Court of inquiry has been appointed by the Central Government under section 24 of the Act, a complaint for taking cognizance of the offence has to be made within six months after the date of publication of the report of the Court of inquiry by the Central Government. This period of six months is proposed to be enhanced to one year under sub-clause (b).

Clauses 43 *and* 44.—The amendments proposed in these clauses have become necessary in view of the coming into force of the Code of Criminal Procedure, 1973 (2 of 1974).

Clause 45.—The amendment proposed in this clause is consequential to the amendment proposed in clause 10.

Clause 46.—Section 83(1) of the Mines Act does not empower the Central Government to grant exemption from the regulations, rules or bye-laws made under the Mines Act. One of the amendments in sub-

clause (a) seeks to confer this power. Similar amendment is being made in sub-section (2) in so far as bye-laws are concerned (*vide* sub-clause (b)). The other amendment in sub-clause (a) is consequential to the amendment proposed in clauses 22 and 26.

Clause 48.—This clause seeks to insert two new section 85B and recognition to the authority of Chief Inspector to reverse or modify, for valid reasons, any order that may be passed by him under the Mines Act, regulations, rules or bye-laws.

Clause 48.—This clause seeks to insert two new section 85B and 85C in the Act. The new section 85B provides for the returns, notices, etc., to be signed by the owner, agent or manager and the new section 85C is intended to clarify the legal position that the cost of any protective epquipment, etc., statutory to be provided to the workers should be borne by the employer.

Clause 49.—This clause provides that from the date of constitution of the Committee, the present Mining Boards shall stand dissolved and their work transferred to the Committee.

FINANCIAL MEMORANDUM

New section 12 substituted by clause 10 of the Bill seeks to provide for the constitution of a Committee. This Committee will replace the existing Mining Boards for different States or groups of States as well as Committees appointed under secton 13. The Committee will have a small staff. The Committee will have also to pay travelling allowance and daily allowance to non-official members for attending the meetings of the Committee as per Government rules. The setting up of the Committee's expected to involve an annual expenditure of about Rs. 50,000 as indicated below:—

Pay of establishment	—	Rs. 20,000
Allowance, honoraria	—	Rs. 25,000
Contingencies	—	Rs. 5,000
Total:—		Rs. 50,000

A non-recurring expenditure of Rs. 10,000 is expected to be incurred in the first year in the setting up of office and purchase of furniture, etc.

2. Clause 2(iv) of the Bill seeks to amend section 2(1) (h) of the Act to clarify the application of the Act to persons employed in mines. Clause 29 of the Bill seeks to amend section 52 to provide for grant of leave to underground workers at the rate of one day for every 15 days of work as against one day for every 16 days of work at present Clause 29 also makes provision for granting proportionate leave in the case of persons who cease to continue in service for one reason or the other during the course of the calander year before they put in required number of attendence. Clause 31(e) provides for increase in the maximum permissible rate of rescue cess from six paise per ton to 25 paise per tonne on the coke and coal despatched from mine. New section 85C inserted by clause 48 seeks to clarify that the cost of any protective equipment, etc., statutorily to be provided to the workers should be borne by the employer. The amendments proposed may involve increased expenditure in so far as they concern the Central Government undertakings. At this stage, it is not possible to make an accurate estimate of the recurring expenditure that would be involved in so far as Central Government undertakings are concerned. No non-recurring expenditure is anticipated.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 30.—Sub-clause (a) seeks to amend clause (j) of section 57 consequent on the prohibition of employment of persons below eighteen years of age in place of existing provision prohibiting adolescents.

Sub-clause (b) seeks to amend clause (q) of that section to empower the Central Government to make regulations for regulating the use of machinery in mines and for providing for the safety of persons employed on or near such machinery and on haulage roads.

Sub-clause (c) seeks to amend clause (u) of that section to enable the Central Government to make regulations for requiring owners, agents and managers of mines to have well-defined boundary for every mine.

Sub-clause (d) seeks to amend clause (v) of that section to enable the Central Government to make regulations for evolving standing procedures to deal effectively with any emergency situation caused by accidents or accidental explosions or ignitions.

Sub-clause (e) seeks to amend clause (x) of that section consequent on the introduction of 'metric system'.

Clause 31.—Sub-clause (a) seeks to substitute clause (a) of section 58 of the Act to enable the Central Government to make rules for providing the term of office and other conditions of service of, and the manner of filling vacancies among, the members of a Committee and for regulating the procedure to be followed by a Committee for transacting its business.

Sub-clause (b) seeks to amend clause (c) of section 58 of the Act enabling the Central Government to recover the expenses in connection with a Court of inquiry from the manager, owner or agent of the mine concerned in the same manner as an arrear of land revenue.

Sub-clause (c) seeks to insert a new clause (cc) in that section to enable the Central Government to make rules for providing for inspection of mines to be carried out by a technical expert (not less than an overman in status) on behalf of persons employed therein, the frequency at which and the manner in which such inspections are to be carried out and the manner in which reports of such inspections are to be made.

Sub-clause (e) seeks to amend clause (u) of section 58 to increase the rate of the levy and collection of duty of excise from six pies per ton to twenty-five paise per tonne on all coke and coal despatched from mines. This will empower the Central Government to make rules levying the duty of excise not exceeding twenty-five paise per tonne.

Sub-clause (f) seeks to insert a new clause (vv) in section 58 empowering the Central Government to make rules for providing for

the constitution of safety committees for groups of specified mines or for all mines in a specified area, for promoting safety and for laying down the composition, manner of formation and functions of safety committees.

The matters with respect to which such regulations and rules may be made are matters of detail and day-to-day working within the scope of the general provisions of the Act. Under the proposed sub-clause (e) of clause 31 of the Bill, the maximum rate of duty of excise has been specified in the Act and the Government can notify a rate not exceeding the maximum so specified. The delegation of legislative power is therefore, of a normal character.

AVTAR SINGH RIKHY,
Secretary.

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